

Promoting Disability Equality in Schools

Guidance for headteachers and teachers in Wales



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

“Do we have any disabled pupils, staff or parents?”

“What is the disability equality duty?”

“Where do I start?”

“How could I make our school accessibility plan meet the requirements of a disability equality scheme?”

The materials in this section can help you to answer these questions.)
They provide an outline to support you in developing an effective)
disability equality scheme.)

The materials include:

- an outline for a disability equality scheme, showing the essential)
elements of a scheme;)
- a summary of the requirements of different parts of the Disability)
Discrimination Act;)
- information that you can use in training and development work.

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'This new duty will help drive forward a culture change across the public sector and accelerate the pace of change on disability equality... It is essential that this duty leads to real outcomes and practical improvements in the day-to-day life and experience of disabled people.'

(Bert Massie, CBE Chairman of the Disability Rights Commission)



1: Introduction)

What is the new Disability Equality Duty ('The Duty')?

The new duty is a big step towards the realisation of disability equality. Schools, and indeed all public bodies, are seen as key to achieving this. This duty is not necessarily about changes to buildings or adjustments for individuals, it's all about including equality for disabled people into the culture of public authorities in practical and demonstrated ways. This guidance booklet focuses on how the Disability Equality Duty (the Duty) applies to schools.

The Duty was introduced into the Disability Discrimination Act 1995 (DDA) in 2005 and sets out:

- a general duty to promote disability equality, which applies to all public authorities; and
- a specific duty, which applies to particular public authorities, including local authorities and publicly-funded schools. The specific

duty includes a requirement to prepare and publish a disability equality scheme (a scheme) showing how a public authority is meeting its general duty.

What does it require schools to do?

It requires schools, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity between disabled people and other people;
- eliminate discrimination that is unlawful under the Disability Discrimination Act;
- eliminate harassment of disabled people that is related to their disability;
- promote positive attitudes towards disabled people;
- encourage participation by disabled people in public life;

- take steps to meet disabled people's needs, even if this requires more favourable treatment.

This Duty was introduced by the 2005 Act as a complementary initiative that requires public authorities – including schools, LEAs, Estyn etc – to actively consider how they carry out their functions to seek to remove barriers to equal outcomes for disabled people. It should be emphasised that the new Duty supplements the individual anti-discrimination rights for disabled people – less favourable treatment or failure to make a reasonable adjustment – set out in the DDA 1995. Of course, the provisions of that Act, along with those of the Special Educational Needs and Disability Act 2001 (SENDA), continue to apply.

The Duty does not bring in new rights for disabled people; rather it requires schools to take a more proactive approach to promoting disability equality and eliminating discrimination. Schools that are already actively meeting their duties in the DDA, should not find it difficult to take a more pro-active, explicit and comprehensive approach that involves disabled pupils, staff, parents and other users of the school.

Schools need to be ...

More proactive

Schools need to move from a focus on an individual response to an approach that builds in disability equality considerations from the start and at every level of the school: at strategic, policy, management and classroom level.

More explicit

Schools have to be able to demonstrate what they have done and what they plan to do to improve opportunities and outcomes for disabled pupils, staff, parents and other users of the school.

More involved

Schools have to involve disabled pupils, staff, parents and others in the development of their scheme. Disabled people need to be involved from the very start; their involvement needs to inform the preparation, development, publication, review and reporting of the scheme.

More comprehensive

Schools have a range of duties under the DDA:

- towards their employees, under Part 2;
- towards other users of the school, under Part 3; and
- towards their pupils, under Part 4.

The Duty does not replace or supersede these. It applies across schools' pre-existing duties and requires schools to address them in their entirety in a way that should bring greater benefits to disabled pupils, staff, parents and others and greater economy of effort for schools.

The General Duty

This general duty has been in force since 4 December 2006. The general Disability Equality Duty (the Duty) contained in Part 5A of the Disability Discrimination Act 1995 applies to schools (Part 5A was inserted into the 1995 Act by the Disability Discrimination Act 2005). The general disability equality duty is contained in s.49A of the 1995 Act. It requires schools, in carrying out their functions, to have due regard to the need to take various steps to secure equal treatment of disabled people. These steps are detailed below at the end of this Chapter.

The Specific Duty

This obligation comes into force for schools in Wales on 1 April 2007. There are also impending obligations for schools under the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005. These regulations *require schools to produce Disability Equality Schemes* that show how they intend to fulfil their obligations under the general s.49A duty and take other steps connected with the promotion of disability equality.

The Disability Equality Duty in relation the Accessibility Plans and the Disability Discrimination Duties

Schools should already have started to improve accessibility for their disabled pupils, as SENDA 2001 (which brought education within the remit of DDA 1995 as Part IV) introduced a requirement for schools to produce Accessibility Plans (and LEAs to produce Accessibility Strategies) by 1 April 2004. Schools are required to revise their Accessibility Plans (and LEAs their Strategies) every three years. As just noted above, all schools in Wales now need to produce a Disability Equality Scheme (DES) by 1 April 2007. This includes Pupil Referral Units and primary schools.

1 April 2007 was set as the date for the publication of disability equality schemes. This is because it coincides with the date by which new accessibility strategies and plans are required by virtue of the Disability Discrimination (Prescribed Periods for Accessibility Strategies and Plans for Schools) (Wales) Regulations 2003. Guidance to LEAs and schools on their responsibilities under s.28D and the 2003 Regulations has already

been issued (Planning to Increase Access to Schools for Disabled Pupils – NAW Circular 15/2004¹).

The accessibility planning duty embraces three strands, as set out in Section 28D of the SEN and Disability Act 2001 and provides guidance on schools' duties in respect of:

- increasing the extent to which disabled pupils can participate in the school curriculum and in activities such as after-school clubs, leisure and sporting events and school trips;
- improving the physical environment of schools for disabled pupils;
- improving the delivery to disabled pupils of written information provided to pupils who are not disabled.

The duty will build on the work the school should already have done in relation to the accessibility plans and the Disability Discrimination Duties. The accessibility plan and the Disability Equality Scheme may be published in the same document. It should, however, be noted that the Scheme will be significantly broader; for example schools,

as public authorities, will have a duty to have due regard to the need to promote disability equality in all its functions – including procurement – and in respect of all disabled people, including disabled staff, governors, parents and other visitors to the school.

A Disability Equality Scheme should clearly set out the steps that a school will be taking over the next three years, in order to meet its general duty to promote disability equality. For the sake of clarity, schools may be well advised to publish an Accessibility Plan separately from its Disability Equality Scheme. If schools consolidate them into a single document, the required elements of a Disability Equality Scheme would need to be readily identifiable. This could include the required information on involvement, gathering information and arrangement for impact assessments.

Schools may have made a start already

Schools will find that they have made a good start on meeting the Duty where they already:

- adopt a proactive approach, for example by making reasonable adjustments at every level of the school;

'A Disability Equality Scheme should clearly set out the steps that a school will be taking) over the next three years, in order to meet its general duty to promote disability equality².')

(Government Strategy Unit, 2005),

- draw on detailed information, for example by using data on the presence, participation and attainment of disabled pupils to inform the priorities in the school accessibility plan;
 - involve disabled pupils, for example by asking them to identify issues to be addressed in the school accessibility plan;
 - collect information about disabled staff and parents; and
 - coordinate their work across Parts 2, 3 and 4 of the DDA.
- 'the Duty' includes both the general duty and the specific duty;
 - the specific duty includes the preparation and publication of a disability equality scheme, referred to as 'a scheme';
 - the expression 'disabled pupils, staff and parents' is used to represent all those to whom the school owes duties under Parts 2, 3 and 4 of the DDA. The duties go wider than 'disabled pupils, staff and parents,' As an example, in part 3, the term should be understood to additionally include disabled carers, governors, disabled people who use the school, or would like to use the school. In the text there are occasional reminders of the wider group to whom the duties apply. The summaries in the resources section provide more detail on who is covered by each Part of the DDA.
- 'the Regulations' means the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 which set out the obligation to produce a Disability Equality Scheme.

Summary of schools' duties under the DDA

The DDA applies to schools in a range of different ways. In particular it applies to three main school functions:

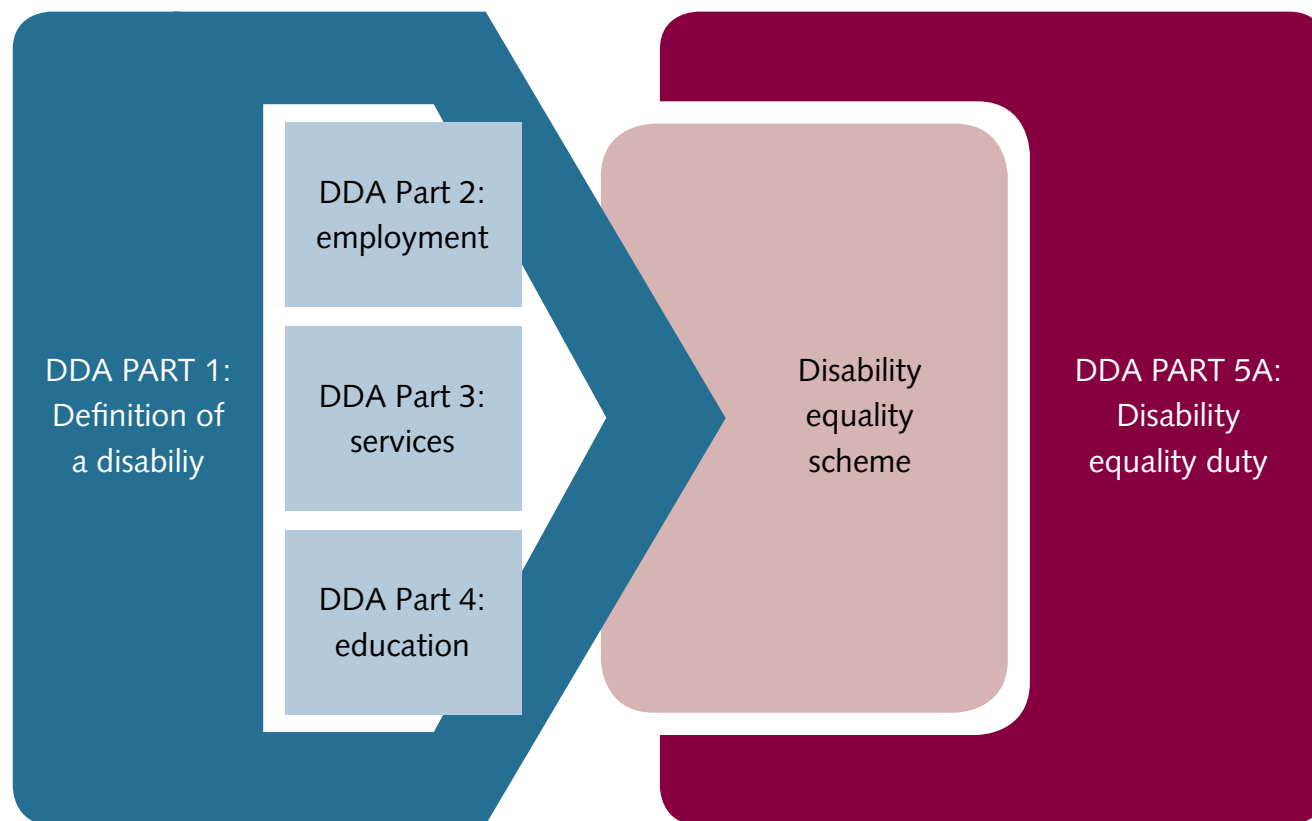
- to the school in its main function of providing education to pupils;
- to the school as an employer;
- to the school as a provider of services to parents and carers and the wider public.

A word about abbreviations

For ease of reading, several abbreviations are used throughout this guidance:

- the Disability Equality Duty is referred to as 'the Duty';

Diagram 1: How the DDA duties fit together



Part 1 of the DDA provides the definition of disability. The definition informs the duties in the other parts of the DDA.

Parts 2, 3 and 4 of the DDA apply to different aspects of the school's operation:

Part 2 sets out duties to disabled employees and prospective employees;

Part 3 sets out duties to disabled service users;

Part 4 sets out duties to disabled pupils and potential pupils.

‘By 2025, disabled people in Britain should have full opportunities and choices to improve their quality of life and will be respected and included as equal members of society.’

(Government Strategy Unit, 2005)

The employment and service provision duties have applied to schools since 1996 when the DDA was first implemented. The education duties were added by the SEN and Disability Act 2001. The Disability Discrimination Act 2005 inserted the Disability Equality Duty (the Duty) into Part 5A of the DDA. The Duty applies across all the main functions covered by the DDA, see Diagram 1, opposite.

The Duty builds on schools' responsibilities under Parts 2, 3 and 4 and the school's scheme is required to show how the school is meeting its general duty to promote disability equality across all its areas of responsibility. The requirements of the general duty and the specific duty are summarised on pages 70.

A note on the Duties of Local Education Authorities (LEAs)

The regulations require local authorities generally to produce a Disability Equality

Scheme. In addition, the regulations also require a separate scheme to be produced by local education authorities.

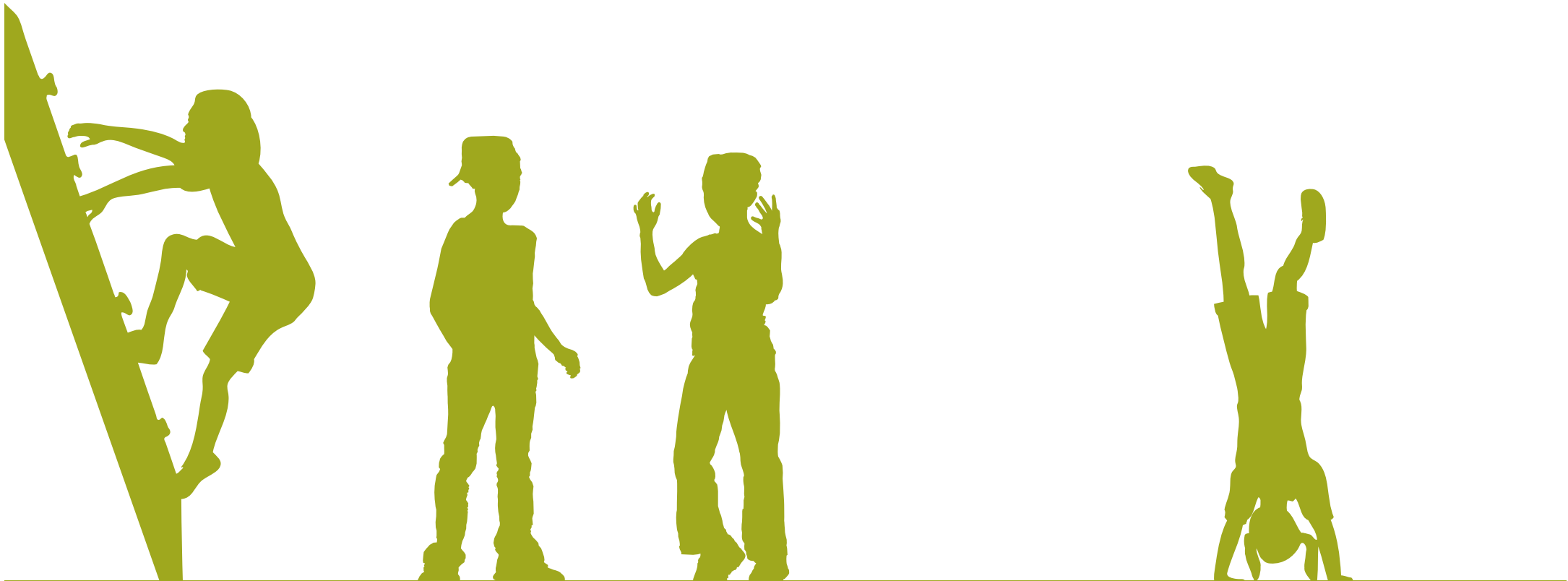
An LEA may often present its Scheme as part of the wider Disability Equality Scheme of the local authority within which it operates. If it does this, it should ensure that the LEA scheme is separately identifiable. It may wish to draw on its complementary obligation to produce an Accessibility Strategy, but will again have a wider remit and need to demonstrate how the involvement of disabled people has influenced the development of the Scheme and resultant actions.

It should be noted that, whilst Local Authorities and LEA schemes may be contained in the same document, they are difference schemes. Local authorities are listed under Schedule 1 Regulation 2 (as appears at Appendix A of the Disability

Rights Commission's Statutory Code of Practice on the Duty to Promote Disability Equality, under Part I) as public bodies having the specific duty to publish a Disability Equality Scheme. Under the regulations, they are obliged to consider its disabled employees and the extent to which the services it provides take account of the needs of disabled people.

Local education authorities are separately listed (under Part II of the Regulations). It is clear that LEAs will also have to set out its obligations on the effect of its policies and practices on the educational opportunities available to, and on the achievements of, disabled pupils and students (see Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 SI No.2966 at paragraphs 2(d) (i) (ii) and (iii) – set out in Appendix A of Code of Practice.

The different elements of the disability equality scheme are set out in the Outline for a disability equality scheme in a way that encourages schools to adopt a staged and manageable process.



2: Developing a disability equality scheme)

Key management considerations

Before starting work on its scheme, a school will need to consider the following points:

Reasonable and practicable

The school is not required to do anything under its scheme that is unreasonable or impracticable. Its approach will vary according to a wide variety of factors, including:

- the size of the school;
- the size and make-up of the disabled population of pupils, staff and parents;
- the proximity of other schools and the potential for links with them;
- the school's building stock;
- the school's budget;
- how the DDA duties interact with other statutory duties.

Links to the accessibility planning duties

The school's accessibility plan can be a good starting point and a plan can be extended and strengthened to meet the requirements of a scheme. However, it is important to recognise that a scheme goes wider than a plan:

- it includes disabled staff, parents, carers and others as well as pupils;
- the involvement of disabled people is a requirement;
- the gathering of information is a requirement.

These materials show how schools can involve disabled pupils and gather and analyse information as part of accessibility planning. Where schools have adopted this approach in their accessibility plan, they will find it relatively straightforward to extend this approach to disabled staff, parents, carers and others in their scheme.

A working group

Schools may find it helpful to appoint a working group of three or four people to steer the development of the school's scheme and to report to the governing body. Some thought needs to be given to the composition of the working group, for example:

A senior manager

The scope of the scheme is across the school's responsibilities, so at least one member of the group needs to be a senior manager, in order to draw on links with every area of the school's work.

A disabled person

It may be helpful to have a disabled representative within the group. This could be a disabled member of staff, or a disabled pupil, for example: a senior pupil or a representative of the school council. However, this should not be a substitute for the wider involvement of disabled pupils, staff and parents in the

development of the scheme. Throughout the development of the scheme the group will need to review the extent to which they are hearing the views of a range of disabled pupils, staff and parents, with a range of impairments.

Other members

It may be helpful to incorporate a range of perspectives into the group by recruiting across curriculum and pastoral responsibilities, across length of service in the school, across teaching and non-teaching responsibilities. The Special Education Needs Co-ordinator (SENCO) might be included because many of the pupils with Special Educational Needs (SEN) will also count as being disabled and the SENCO will know them well. However, not all disabled pupils have SEN and it should not be assumed that the SENCO has sole responsibility for the DDA duties: they are as much the responsibility of the key stage co-ordinator or the head of Maths as they are of the SENCO.

Working with the local authority

Schools need to work closely with their local authority where their responsibilities dovetail with each other and where there may be shared elements. Responsibilities under the DDA sit precisely with the body that has the responsibility for any particular function. So, for example, if a local authority has the responsibility for admissions, the local authority has responsibility for the DDA duties in relation to admissions; if the school has responsibility for the recruitment of staff, the school has responsibility for the DDA duties in relation to the recruitment of staff.

Issues that require particular consideration are:

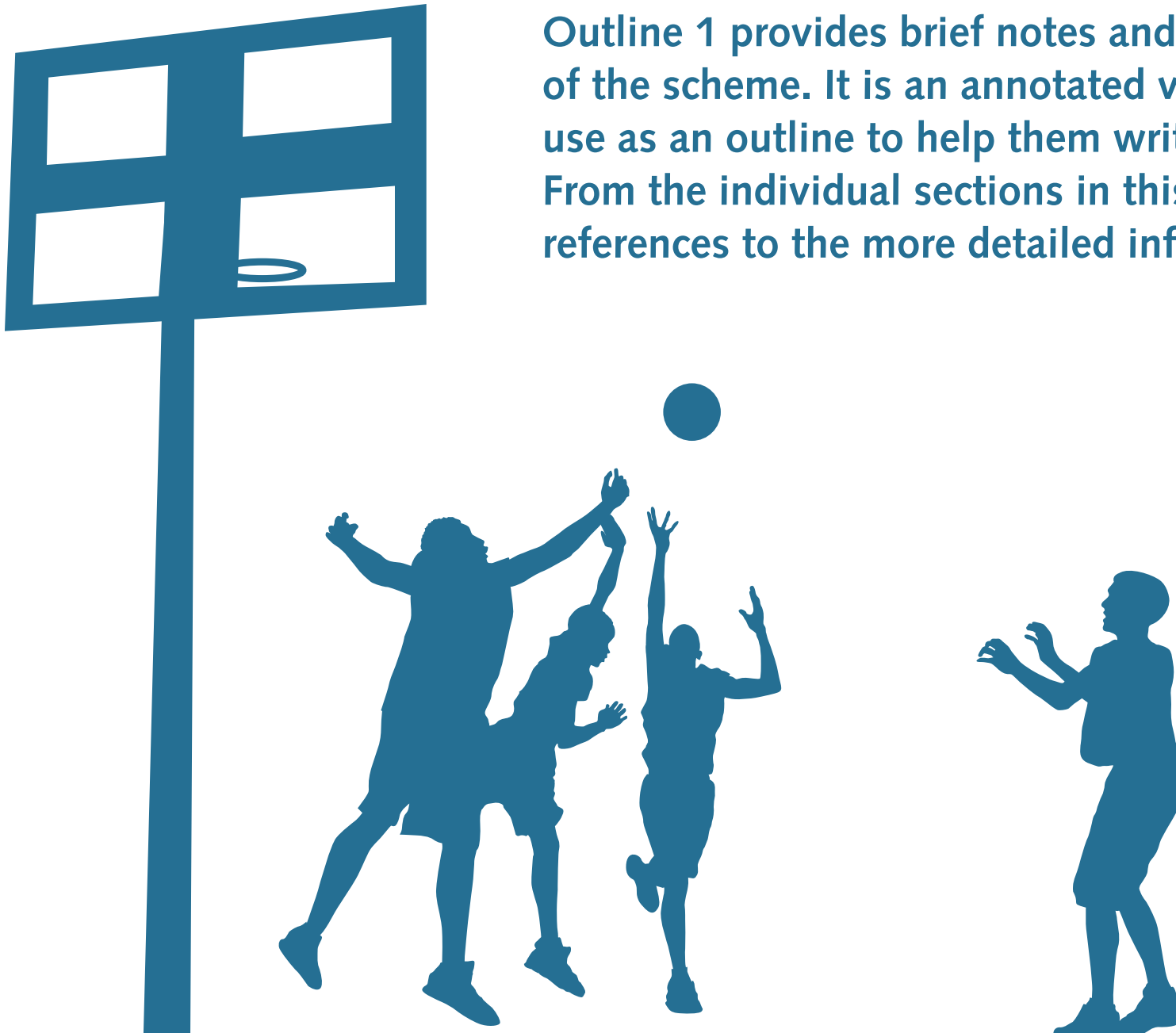
- employment, where the respective responsibilities of school and local authority will vary according to: the status of the school, the delegation of responsibilities locally and the extent to which schools buy back services from the authority;

- procurement, which is regulated by the local authority. Local authority regulations will be amended to reflect the requirements of the DDA;
- the provision of extended services;
- the scheme for a pupil referral unit (PRU): this is the responsibility of the local authority, but, as a matter of good practice, the management committee for a PRU may prepare its scheme in consultation with the local authority.

Procurement

This is an important issue for local authorities and schools. Where schools/local authorities have contracts with private, charitable or voluntary organisations, they need to ensure disability equality requirements are reflected in their contracts for goods and services. (For more detailed guidance see the Disability Rights Commission (DCA) document: The Duty to Promote Disability Equality Code of Practice, paragraphs 5.4, 5.17-5.19)

Outline 1 provides brief notes and ideas on each section of the scheme. It is an annotated version that schools can use as an outline to help them write their own scheme. From the individual sections in this version there are references to the more detailed information in Outline 2.



3: Outline for a disability equality scheme)

The *Outline for a disability equality scheme* sets out a number of sections that should be included in a disability equality scheme. In each section there is a discussion of a number of key issues. By addressing these issues, and undertaking the related development work, schools can have reasonable confidence that they will be able to develop an effective disability equality scheme.

There are two versions of the outline providing different levels of detail and support:

- **Outline 1:** the outline with notes;
- **Outline 2:** the outline in detail.

Outline 1 provides brief notes and ideas on each section of the scheme. It is an annotated version that schools can use as an outline to help them write their own scheme. From the individual sections in this version there are references to the more detailed information in **Outline 2**.

Outline 2 is more detailed and is illustrated with case studies from schools. This section is likely to be of use to senior managers and to any working party that the school may appoint to lead the development of its scheme.

Developing a scheme

The approach suggested here for the development of a disability equality scheme is similar to that suggested for the development of an accessibility plan, with:

- 1 **Starting points**, which enable the school to identify priorities;
- 2 **Priorities**, which require a supporting action plan; and
- 3 **Making it happen**, monitoring and follow up, to ensure it is all happening.

In each section of the scheme statutory requirements are in italics in a box at the top of that section.

Outline 1: the outline with notes)

This outline shows how a school might meet the requirements of a disability equality scheme.

School name:

3-year period covered by the disability equality scheme:

Introduction

Duties under Part 5A of the DDA require the governing body to:

- promote equality of opportunity for disabled people: pupils, staff, parents, carers and other people who use the school or may wish to; and
- prepare and publish a disability equality scheme to show how they will meet these duties.

This scheme and the accompanying action plans set out how the governing body will promote equality of opportunity for disabled people.

Duties in Part 4 of the DDA require the governing body to plan to increase access to education for disabled pupils in 3 ways:

- increasing the extent to which disabled pupils can participate in the school curriculum;
- improving the environment of the school to increase the extent to which disabled pupils can take advantage of education and associated services;
- improving the delivery to disabled pupils of information which is provided in writing for pupils who are not disabled.

This scheme incorporates the school's plans to increase access to education for disabled pupils.

1: Starting points

1.1 The purpose and direction of the school's scheme

The purpose of the school's scheme is to show how the school is going to meet the Duty to promote disability equality for disabled pupils, staff and parents. An overall vision should therefore reflect the six elements in the general duty (see page 3).

Recognising that the school's scheme has to extend to disabled pupils, staff and parents, the school may want to:

- incorporate into its scheme the vision and values it has identified in its accessibility plan for disabled pupils;
- use these as a starting point for the school's scheme.

It is important that there is some ownership of the scheme by pupils, staff and parents.

The development of a statement of the overall purpose and direction of the school's scheme is a useful point at which to develop this ownership.

1.2 Involvement of disabled pupils, staff and parents

The school must involve, in the development of its scheme, disabled people who appear to the school to have an interest in the way it carries out its functions.

The school must include in its scheme a statement about how it has involved disabled people in the development of its scheme.

Involving disabled people is a requirement of a scheme and brings real benefits.

Where schools already involve disabled pupils in accessibility planning, they will have identified views that can be incorporated into and inform their scheme.

The school will need to consider how it involves disabled:

- pupils;
- staff; and
- parents, carers and other users of the school.

The school needs to take account of the preferred means of communication for those whom they are consulting.

The school will need to ensure it involves a range of disabled people and hears a range of views.

At the same time as setting priorities identified by disabled pupils, staff and parents, the school may need to set priorities that will help to improve the involvement of disabled pupils, staff and parents to better inform the next scheme.

For case studies and a more detailed discussion of the issues, see page 28.

1.3 Information gathering

The school's scheme must set out:

- **its arrangements for gathering information on the effect of the school's policies on:**
 - **the recruitment, development and retention of disabled employees;**
 - **the educational opportunities available to and the achievements of disabled pupils**
- **the arrangements for using information to support the review of the action plan and to inform subsequent schemes.**

The collection of information:

- is a requirement;
- is crucial to setting priorities and monitoring outcomes;
- needs to reflect the DDA definition of disability.

A number of considerations may mean that the school has difficulty in gathering full and accurate information:

- a lack of understanding about the breadth of the DDA definition of disability;

- a reluctance to disclose an impairment;
- a concern about what the information will be used for.

Schools need to take active steps to counter these concerns by, for example:

- providing simple information on the definition of disability in the DDA;
- being positive about adjustments that can be made and the benefits of these;
- explaining why information is needed;
- reassuring pupils, staff and parents about confidentiality;
- ensuring that the ethos of the school is conducive to disclosure.

The scheme should identify how information has been gathered and how it has informed the scheme.

Some of the priorities for schools' first schemes will reflect the need to gather improved information for the next scheme.

Recruitment, development and retention of disabled employees

The information gathering duty applies to all job applicants and those working at the school. The school will need to consider:

- the respective responsibilities of the school and the local authority;
- collecting information on new staff through the recruitment process;
- how to collect information on existing staff;
- the analysis of the information to show how disabled staff are represented amongst different groups of employees, at different levels of the school, and amongst those who leave the school.

Schemes will need to:

- draw on current information;
- show how information gathering is going to be improved in the future;
- reflect the benefits of a diverse workforce.

Educational opportunities available to and the achievements of disabled pupils

This might involve an analysis of:

- the presence of disabled pupils, for example: how many disabled pupils there are in the school, which impairment groups are represented, or not represented, in the school;
- the participation of disabled pupils across the life of the school, for example: in curricular and extra-curricular activities, in positions of responsibility;
- the factors affecting participation, for example: policies on medication, bullying, access;
- achievements of disabled pupils as reflected in, for example: exams, accredited learning, achievements in extra-curricular activities, broader outcomes such as those set out in *Children and Young People Rights to Action*.

Where schools have already gathered and analysed information on disabled pupils as part of their accessibility plan, they will have identified priorities that can be incorporated into their scheme.

Disabled parents, carers and other users of the school

Schools are not required to gather information on other disabled people using their services, but the general duty still applies and, if schools are able to collect such information, they will be in a better position to show how they are promoting disability equality for disabled people using the school.

For case studies and a more detailed discussion of the issues, see page 31.

1.4 Impact assessment

The school must set out in its scheme its methods for assessing the impact of its current and proposed policies and practices on disability equality.

Impact assessment is a systematic approach to the analysis of the effects of a policy, practice or procedure for disabled pupils, staff and parents.

The main mechanism by which schools will assess the impact of their current policies will be by bringing together:

- the issues identified through the involvement of disabled pupils, staff and parents; and
- the information that the school holds on the disabled pupils, staff and parents.

Schools need to assess the impact of their current policies. This can be carried out over the lifetime of the scheme. Disabled people should be involved in prioritising what is to be looked at first. Impact assessment can be incorporated into the school's planned review and revision of existing policies and should also be incorporated into the process of developing new policies.

For more detail, see page 38.

2: Identifying the main priorities for your school's scheme and deciding your actions)

Schools are required to set out in their scheme the steps they are going to take to meet the general duty.

The priorities for the school's scheme need to be set in the light of:

- an examination of the information that the school has gathered; and
- the messages that the school has heard from the disabled pupils, staff and parents who have been involved in the development of the scheme.

Some of the priorities identified will themselves be about:

- improving information;
- improving the involvement of disabled pupils, staff and parents.

Action to promote equality of opportunity needs to address the six elements of the general duty:

Promoting equality of opportunity

Where schools are working proactively to make reasonable adjustments for disabled pupils at policy and whole school level, as well as for individual pupils, they will already be doing much to promote equality of opportunity for disabled pupils and to secure their participation in every aspect of school life.

Schools can incorporate priorities from their accessibility plan into their scheme. These priorities may form a substantial part of the school's scheme. There will be further priorities to add in respect of promoting equality of opportunity for:

- disabled staff;
- disabled parents, carers and others who use the school.

Eliminating discrimination, for example:

- by awareness raising and staff training;
- by keeping a watchful eye on the impact of policies;
- reviewing and adjusting policies;
- raising expectations;
- improving communication.

Eliminating harassment

Bullying is more prevalent than is often thought. Schools may need to:

- raise awareness amongst staff and pupils of disability-related harassment;
- understand the nature and prevalence of bullying and harassment;
- recognise and address bullying and harassment;
- involve pupils themselves in combating bullying;
- ensure that disability-related harassment of disabled staff, parents, carers and other users of the school is identified and addressed.

Promoting positive attitudes

Positive attitudes to disability can be promoted in a variety of ways, for example:

- by staff modelling respectful attitudes to disabled pupils, staff and parents;
- by ensuring representation of disabled people in senior positions in the school;
- through positive images in school books and other materials.

Encouraging participation in public life

Disabled pupils, staff and parents will be encouraged to participate where:

- they see their disabled peers included and succeeding in the life of the school;
- disabled pupils, staff and parents are represented in senior, responsible and representative roles;
- there are positive images of disabled people participating in such activities.

Taking steps to meet disabled people's needs, even if this requires more favourable treatment

Often these steps may look very much like reasonable adjustments, but the main focus is likely to be on policy rather than the individual pupil, member of staff or individual parent.

Action might include:

- additional coaching or training for disabled pupils, staff or parents;
- special facilities for disabled pupils at breaks and lunchtimes;
- a policy of interviewing all disabled applicants who meet the minimum requirements for a job.

For case studies and a more detailed discussion of the issues, see page 40.

3: Making it happen

3.1 Implementation

Schools are required to implement the actions in their scheme within three years.

Schools will be able to be more certain of the implementation of their scheme where:

- the scheme is supported by a detailed action plan; and
- the action plan is incorporated into a framework that has the oversight of the governing body, so that progress is checked.

Action plans need to be sufficiently explicit to enable the school to judge whether or not their targets have been achieved.

Action plans should show:

- clear allocation of lead responsibility;
- clear allocation of resources;
- an indication of expected outcomes or performance criteria;
- clear timescales;
- a specified date and process for review.

Disability equality schemes can include priorities identified in the school's accessibility plan, or can incorporate the school's entire accessibility plan.

Schools will need to consider how priorities identified in the school's scheme fit in with other priorities that the school has to address. Schemes overseen by the governing body are more likely to be checked for progress.

Evaluation

Schools will need to be able to evaluate the effectiveness of their scheme and their ability to promote equal opportunities and reflect this evaluation in their discussion with Estyn, when the school is inspected.

For more detail, see page 50.

3.2 Publication

Schools are required to publish their disability equality scheme.

The school's scheme can be published:

- as a separate document; or
- as part of other school documents, for example an equal opportunities policy or the school improvement plan.

The school must be able to provide a copy to anyone asking for one.

Schools can publish a single document to serve as both their accessibility plan and their disability equality scheme.

Schemes must be published by 1 April 2007.

For more detail, see page 52.

3.3 Reporting

Schools are required to report on their scheme annually.

In the annual report on their scheme, schools will want to report on:

- the progress they have made on their action plan; and
- the effect of what they have done.

The report on the scheme may be:

- in a separate document; or
- contained within another document, for example: the school prospectus, where the school is required to report on its accessibility plan.

For more detail, see page 52.

3.4 Reviewing and revising the scheme

Schools are required to review and revise their scheme every three years.

Schools are required to set out in their scheme the arrangements for using information to support the review of the action plan and to inform subsequent schemes.

As part of the review of their scheme, schools will need to:

- revisit the information that was used to identify the priorities for the scheme; and
- re-examine the information to see if actions that the school has taken have affected opportunities and outcomes for disabled pupils, staff and parents.

The review of the scheme will inform its revision: how the school sets new priorities and new action plans for the next scheme. This process must again:

- involve disabled pupils, staff and parents; and
- be based on information that the school has gathered.

Schools may want to align their accessibility plan and their disability equality scheme so that they produce a new scheme and plan at the same time.

For more detail, see page 53.

Outline 2: the outline in detail

Outline 2 is more detailed and is illustrated with case studies from schools. This section is likely to be of use to senior managers and to any working party that the school may appoint to lead the development of its scheme.

1: Starting points

- 1.1 The purpose and direction of the school's scheme
- 1.2 The involvement of disabled pupils, staff and parents
- 1.3 Information gathering, and
- 1.4 Impact assessment

2: Identifying the main priorities for your school's scheme and deciding your actions

- 2.1 Promoting equality of opportunity
- 2.2 Eliminating discrimination
- 2.3 Eliminating harassment
- 2.4 Promoting positive attitudes
- 2.5 Encouraging participation
- 2.6 Taking steps to meet disabled people's needs, even if this requires more favourable treatment

3: Making it happen

- 3.1 Implementation
- 3.2 Publication
- 3.3 Reporting
- 3.4 Reviewing and revising the scheme

1: Starting points

1.1 The purpose and direction of the school's scheme

The purpose of the school's scheme is to show how the school is going to meet the Duty to promote disability equality for disabled pupils, staff and parents. An overall vision should therefore reflect the six elements in the general duty.

As a starting point, the school may want to consider any statement of vision and values that it has set out in its accessibility plan. This could be adapted, for example:

- by broadening references to disabled pupils in the plan to include the wider range of people to whom the disability equality duty is owed: disabled pupils, staff, parents, carers and others who use the school or may want to do so;
- by incorporating references to the general duty into the statement.

It will be helpful if there is some discussion about the school's statement. Such discussion:

- can help to involve disabled pupils, staff and parents;

- can help to engage all staff in the development of the scheme;
- can help to create a sense of ownership of the scheme;
- is an opportunity to remind staff of the school's duties towards disabled pupils, staff and parents;
- underlines the responsibility of every member of staff.

1.2 Involvement of disabled pupils, staff and parents

The school must involve, in the development of its scheme, disabled people who appear to the school to have an interest in the way it carries out its functions.

The school must include in its scheme a statement about how it has involved disabled people in the development of its scheme.

Disabled pupils, staff and parents should be involved in all stages of the development of the scheme: in identifying the priorities, how these priorities should be met in the action plans and how the school should assess its progress.

Involving disabled people is not only a requirement of the Duty but brings real benefits in terms of:

- providing insights into the barriers faced by disabled pupils, staff and parents;
- expertise in identifying ways to overcome these barriers; and
- improving working relationships between schools and disabled pupils, staff and parents.

Schools can choose whom they involve and the school's approach will vary in the light of a range of factors, including the current representation of disabled pupils, staff and parents at the school and links with other schools and the wider community.

At the outset, schools may not be sure who their disabled pupils, staff and parents are. Over time, schools will develop a clearer picture. Initially schools will need to consider a range of approaches and may want to involve some or all of the following groups in the preparation of the school's scheme:

Do you know who your disabled pupils are? Your disabled staff? Your disabled parents, governors and other users of the school?

Disabled pupils

Schools may have established the involvement of disabled pupils in developing the school accessibility plan. Guidance on their responsibilities has already been issued to LEAs and schools (Planning to Increase Access to Schools for Disabled Pupils – NAW Circular 15/2004)

Schools might involve disabled pupils at the school, those who have left the school or those who may be coming to the school, for example from feeder primary schools. Exit interviews with disabled pupils leaving the school each year may provide useful insights that should inform the school's scheme.

The school might involve disabled pupils through the school council, by meeting with small groups of pupils, by creating a more informal social occasion for disabled pupils, through an e-forum, or by arranging a meeting across the local authority or a cluster of

schools. The school should adapt its approach to accommodate pupils' preferences.

Example:

A school sets up an open meeting for disabled pupils to gather their views. They notice that pupils with communication impairments find it difficult to participate in the meeting and either do not take part, or talk for long periods without recognising others' contributions. The school decides to ask the pupils about how best to support them. Some pupils would like support during the meeting to help them participate appropriately. Others say they would find it easier to contribute via an email group, using the same questions as are used in the meeting.

The involvement of disabled pupils may take place as part of the wider involvement of all pupils. The views of disabled pupils might be mediated by other pupils at the school; possibly more senior pupils, who may themselves be disabled.

Example:

An LEA decides to hold a pupil conference to promote the active participation of children and young people in the services that affect them. This is a good opportunity for the views of disabled children and young people to be heard and taken into account.

Disabled staff

Schools might involve disabled employees working at the school, those working at other local schools or working for the local authority. The school might involve disabled staff through a local teacher union network, an e-forum, or meetings across a cluster of schools. Schools might offer exit interviews to all staff who leave, disabled and non-disabled. Such interviews might provide useful information for the school's scheme and might also offer some insight into factors affecting disclosure.

Get disabled pupils, staff, parents and others involved from the start. Improve representation and develop involvement as part of the action plan.

Disabled parents and other users of the school

Schools may wish to involve:

- disabled governors;
- disabled parents or other disabled family members;
- non-disabled parents of disabled children;
- disabled members of the parent-teacher association;
- disabled volunteers at the school; and
- disabled members of the wider community, such as local disability groups or disabled individuals using the school beyond the school day.

Schools might arrange a meeting through the parent-teacher association or a local disability group, a meeting for their own school or for a cluster of schools.

Example:

A secondary school is planning adaptations and a new extension for a learning resource

centre, to include a small library, ICT resources, a room for flexible use (for teaching, meetings or training) and a reception/office/interview room. It will be available out of school hours for adult learning and community use. The school involves pupils, parents, other local schools, community groups and the local authority. They invite a local access group to become involved and publish an article in a local newspaper inviting interest and contributions, from disabled people in particular.

Communication

The involvement of disabled pupils, staff and parents should take account of their preferred means of communication.

Example:

A special school for pupils with autistic spectrum disorders uses a range of forms of communication: objects of reference, pictures, symbols, signing and the written word. All parts of the school are labelled with pictures, symbols and words; all staff have their photo

displayed, with small photos available for use in communication.

Six senior pupils, elected representatives of the school council, are involving other pupils in the development of the school's scheme. They are supported by a teaching assistant who facilitates the work of the school council. Each pupil is consulting with three or four classes during circle time. They are using a number of questions that have been prepared in symbols and which are also signed. These include: 'Who helps you?', 'Do the pictures help you to get around the school?'

A range of views

It will better inform their scheme if schools hear the views of a diverse group of disabled people, but it is unlikely that an individual school will hear the voice of representatives of all impairment groups. Needs vary, even within an impairment group. For example: two people with a visual impairment may have widely differing needs; the needs of older people may

The definition of disability in the DDA is broad. Raising awareness of the definition is key to collecting more accurate information.

differ from those of younger people. For this reason, schools should try to involve disabled people who have a perspective that goes wider than the effects of their own impairment and who bring with them an understanding of the barriers that exist for groups of disabled pupils, staff and parents.

Schools can decide on the most appropriate approach for them in the light of existing individuals and groups at the school and their links with others beyond the school. Schools will find the involvement of disabled pupils, staff and parents easier where:

- they have already built a culture of listening to and respecting the views of pupils, staff, parents and others;
- they already involve pupils, staff and parents in identifying reasonable adjustments;
- they already involve disabled pupils in accessibility planning;

- they have good links with the local community and disability organisations.

Developing involvement

Most important is that the involvement is real, that the school hears the views of disabled pupils, staff and parents and develops their scheme in response to what they hear. However, getting the involvement right is not straightforward and it is likely that the school's first scheme will be developed in the light of the views that the school can hear more readily. Part of the action plan will then need to focus on developing the involvement of disabled pupils, staff and parents over the three years of the scheme. This way schools will learn what works and the involvement of disabled pupils, staff and parents should improve and deepen over time.

1.3 Information gathering

The school's scheme must set out:

- **its arrangements for gathering information on the effect of the school's policies on:**
 - **the recruitment, development and retention of disabled employees;**
 - **the educational opportunities available to and the achievements of disabled pupils**
- **the arrangements for using information to support the review of the action plan and to inform subsequent schemes.**

The collection of information is crucial in supporting schools to make decisions about what actions would best improve opportunities and outcomes for disabled pupils, staff and parents. The information will also subsequently help schools to review their performance. Information needs to be detailed enough to enable schools to measure their delivery on disability equality, to assess the impact of the changes they have made and to help them identify which of their priorities have been achieved.

Can disabled pupils, staff and parents be confident that information shared with the school will be used to support the development of disability-friendly policies?

Schools may not be aware of the breadth of the definition of disability and of the people who are likely to be included in the definition. Raising awareness of the definition and its breadth will be an important element in developing more accurate information over time.

Schools that are already proactively identifying disabled pupils, staff and parents may already have reliable information. Until the introduction of the disability equality duty, there was no requirement on schools to collect this information. Schools collect information about pupils with SEN under the Schools Census. However, this may not have included all the disabled pupils at the school; for example: there may be pupils who do not have SEN but have a medical condition, such as diabetes, severe asthma, epilepsy, chronic fatigue syndrome, or a mental health condition.

Encouraging disclosure

The primary reason for knowing who is disabled is to ensure that appropriate adjustments are made. Disabled people are not required to disclose a disability, though it is in their interests to do so if they need reasonable adjustments to be made for them. Disclosure needs to be approached in this light and not just as a consideration to be taken into account in information gathering. Disabled pupils, staff and parents may not feel comfortable disclosing an impairment or health condition, unless they know why the information is being requested and what impact the information gathering is likely to have for them. Some staff do not want others to know about their health condition.

There will also be some people who do not know that their impairment or health condition would meet the definition of disability in the DDA. For example, someone diagnosed with breast cancer may not realise that their impairment is covered by the DDA.

To overcome these barriers, schools will need to:

- provide simple information on the definition of disability in the DDA;
- be positive about the sort of adjustments that can be made and the benefits of these;
- explain why information is needed;
- reassure pupils, staff and parents about confidentiality; and
- ensure that the ethos of the school is conducive to disclosure: people will feel more comfortable about acknowledging an impairment or health condition if the circumstances in which they are asked about it encourage them to believe that the information they disclose will be handled sensitively and confidentially and used to improve opportunities and outcomes for them.

Recruitment, development and retention of disabled employees

Schools are specifically required to set out their arrangements for gathering information on the *'recruitment, development and retention of disabled employees; the arrangements for using information to support the review of the action plan and to inform subsequent schemes.'*

It is important to remember that the Duty applies to all those working at the school in whatever capacity and includes those who are working under a contract.

Schools should be aware of the support available through Access to work. A brief summary of the scheme is included in *Resources, page 59*.

Working with the local authority

Different aspects of employment may be the responsibility of the school or the local authority. This will vary according to a number of factors:

- the status of the school. For example, It may be a community or a voluntary school
- the range of functions that is delegated to schools; and

- the extent to which the school buys back some functions from the local authority.

Whatever the arrangements, it is important to liaise with the local authority over the respective responsibilities of the school and the local authority. The local authority may have agreed policies with schools on phased return to work after illness, sick leave policies and monitoring. These may be relevant for disabled staff.

New staff

Where schools do not already gather information on disability, a good place to start is the collection of information through the recruitment process. It is important to remember that nothing requires an applicant to disclose a disability and the school needs to take account of the points made, above, about disclosure. Where the local authority has a role in the recruitment process it is important to liaise with the authority over the collection of information.

Existing staff

Where existing staff are not asked for information on disability, the collection of this information will need to be discussed. As with new staff, the approach that the school takes

will need to reflect the points made about encouraging disclosure. It may be that, following discussion, a questionnaire is circulated in confidence to employees, at their home address.

Initially such information is likely to be incomplete and imperfect. Disabled staff may fear negative outcomes following disclosure and may fear that the data will not be held anonymously. This does not mean it should not be collected. The very collection of it is likely to lead to better information the next time it is collected.

As information on staff improves, it will be important to analyse the information in respect of the representation of disabled staff:

- in all aspects of the work of the school; for example, teaching, teaching support, administrative support;
- at all levels of seniority in the school;
- amongst those awarded Teaching and Learning Responsibility Payments;
- as permanent or temporary members of staff, full- or part-time or casual staff;
- in training and professional development opportunities;
- in disciplinary and capability proceedings;

- in harassment and bullying procedures;
- as contract staff; for example, contract cleaners and agency supply teachers;
- among those who take sick leave;
- among trainee teachers on placement at the school; and
- among those leaving the profession early.

Retaining staff

Schools should seek to retain disabled staff who wish to continue working for them. Gathering information on the representation of disabled people within the workforce should involve an analysis of whether the appropriate adjustments are being made and the support provided to enable disabled staff to return to work or continue in service where that is what the disabled member of staff wants to do.

"Becoming a 'disability-friendly' place to work and having a diverse workforce is likely to be associated with improved retention, more reliable information and can bring wider benefits to the school:

- *a wider field for recruitment;*

- *retaining the experience and skills of employees who become disabled during their working life and avoiding the costs of recruiting and training new people;*
- *developing in-house expertise about what disabled staff and/or pupils may require;*
- *providing role models for children and young people;*
- *bringing different life experiences and new skills to the school; and*
- *helping foster good relations with all employees by showing that everyone is valued and treated fairly."*

Adapted from Disability Rights Commission (2006).³

Educational opportunities available to and the achievements of disabled pupils

Schools already hold significant information about their pupils. Using the information to inform their scheme is largely a matter of how the information is analysed and interrogated. This, however, needs to be informed by an understanding of which pupils may count as disabled.

The school's approach may differ for new pupils and for existing pupils. Where schools do not already gather information on disability through the admissions process, this is a good place to start. However, a number of factors can affect the response from parents:

- how parents are asked;
- how parents think the information will be used; and
- parents' understanding of what may amount to a disability. Because it is a wide definition of disability, it is advisable to ask a broadly cast question, for example, 'Does your child have any learning difficulty, medical condition or disability?'

Where the local authority has responsibility for admissions, it is important to liaise with the authority over the collection of information.

The gathering of information on disabled pupils might include an analysis of:

- the presence;
- participation; and
- achievements of disabled pupils.

You don't have to collect information on disabled parents, carers and others using the school, but it's difficult to 'do the Duty' without this information.

Presence

An analysis of the information might show:

- how many disabled pupils there are in the school;
- which impairment groups are represented in the school; and
- whether there are groups of disabled pupils who are not represented at the school.

Participation

The school might consider whether:

- there are areas of the curriculum to which disabled pupils have limited or no access. Some areas of the curriculum present particular challenges, for example:
 - PE for pupils with a physical impairment,
 - science and technology for pupils with a visual impairment,
 - humanities for pupils with learning difficulties;
- disability issues are reflected in the curriculum;

- disabled pupils participate in extra-curricular activities. Some aspects of extra-curricular activities present particular challenges, for example:
 - lunch and break times for pupils with social/interaction impairments,
 - after-school clubs for pupils with physical impairments,
 - school trips for pupils with medical needs;
- there are parts of the school to which disabled pupils have limited or no access at the moment, or whether physical features of the school environment hamper access to the whole life of the school;
- different forms of communication are made available to enable all disabled pupils to express their views and to hear the views of others;
- access to information is planned, with a range of different formats available for disabled pupils; and

- other issues affect the participation of disabled pupils, for example:
 - bullying, peer relationships,
 - policies on the administration of medicines,
 - the provision of personal care,
 - the presence or lack of role models or images of disabled people,)
- in effect, all the school's policies and) procedures, written and unwritten.)

Careful consideration of these issues may indicate some clear priorities for the school's scheme. Other issues may need to be addressed more immediately by making 'reasonable adjustments' to school policies, practices and procedures; for example, to the school's behaviour policy.

The achievements of disabled pupils

If disabled pupils are in the school and participating in every aspect of the life of the school: how well are they achieving?

Start with information that can be gathered easily, then improve information gathering and analysis as part of the action plan.

Schools need to undertake a detailed analysis of outcome data for disabled pupils, including:

- exams;
- accredited learning;
- outcomes at the end of each key stage;
- comparative progress measured by the optional SATs;
- achievements in extra-curricular activities; and
- broader outcomes, such as those set out in Children and Young People: Rights to Action.

Information on disabled parents, carers and others using the school

Schools are not required, under the specific Duty, to gather information on other disabled people using their services, such as disabled parents and carers of children at the school, or disabled members of the community attending school events. However, the general duty still applies to these groups and, if schools are able to collect such information, they will be in a

better position to show how they are promoting disability equality for disabled people using the school. A school might, for example:

- ask about any disability or health condition in early communications with new parents and carers. It will be helpful if such communications emphasise the range of adjustments that can be made;
- for parents and carers of children already at the school, collect information on disability as part of a survey of parents' views, or in conjunction with a letter home about a parents' evening.

Schools will need to consider how to encourage disclosure of a disability by parents, carers and others using the school. They will particularly want to emphasise the benefits and the support available.

Example:

A primary school added the following text to their first letter to new parents and carers:

Your support for your child's education is crucial to their progress. Please tell us if there are any adjustments we need to make to help you support your child, for example: letters in large font or Braille, providing a signer, explaining things over the phone, wheelchair access.

Developing an information base

The development of a sound information base may take some time and may itself need to be a priority for the school's scheme. However, the scheme cannot be delayed until better information has been collected. It is important to develop the scheme on the basis of available information, even where that may be patchy, and draw on the involvement of disabled people to identify key areas where action is needed to deliver improved outcomes. Where appropriate, schools might supplement their information base by drawing on research to inform their priorities.

1.4: Impact assessment

The school must set out in its scheme its methods for assessing the impact of its current and proposed policies and practices on disability equality.

A disability equality impact assessment involves a systematic approach towards the analysis of the effects a policy, practice or procedure has on disabled pupils, staff and parents. An impact assessment is usually carried out on a new policy as it is introduced.

The main mechanism by which schools will assess the impact of their current policies will be by bringing together:

- the issues identified through the involvement of disabled pupils, staff and parents; and
- the information that the school holds on the disabled pupils, staff and parents.

This will enable the school to make a judgement about the relevance and significance of policies with regard to disability equality. This in turn will determine where the school needs to set its priorities and what changes are needed to improve equality of opportunity.

However, current processes for gathering information tend to be based around pupils with special educational needs and/or statements, but the sector will need to move away from thinking about disability in terms of SEN, as these mechanisms do not address the needs of disabled children who do not have a special educational need or a statement. Nor do they take into account the needs of disabled parents, governors, teachers and so on.

Schools will need to adopt a planned approach, over the lifetime of the scheme, to assessing the impact of their current policies on disability equality. As schools develop their approach, assessing the impact of school policies on disability equality can become part of the school's approach to the review and development of all policies. It is important that, as new policies are developed, their impact on disability equality is assessed from the outset.

2: Identifying the main priorities for your school's scheme and deciding your actions)

Schools are required to set out in their scheme the steps they are going to take to meet the general duty.

The priorities for the school's scheme need to be set in the light of:

- an examination of the information that the school has gathered;
- the messages that the school has heard from the disabled pupils, staff and parents who have been involved in the development of the scheme; and
- an assessment of the impact of current policies on disability equality.

Where a school is incorporating its accessibility plan into its scheme, there will already be priorities and actions identified as part of the school's plan. These priorities may form a substantial part of the school's scheme, particularly where a school has interpreted the planning duties broadly and has, for example, included measures to combat disability-related bullying or to increase representation of disabled pupils in positions of responsibility. Where the school has arrived at these priorities using a thorough approach to the involvement

of disabled pupils and the gathering of information, there may be few further priorities to add in respect of promoting equality of opportunity for disabled pupils. There will, however, be further priorities to add in respect of equality of opportunity for:

- disabled staff; and
- disabled parents, carers and others who use the school.

Particularly for schools' first schemes, some of the priorities identified will themselves be about improving information and involvement.

Example:

A secondary school sets up a working group to advise on the school's disability equality scheme.

The group is aware of evidence that disabled teachers, and particularly those with mental health conditions such as depression, may be reluctant to disclose a disability. The working party only knows of one disabled member of staff, who has cancer, and they ask her:

- **if she would join the working group;**
- **what the school needs to do to enable more staff to feel comfortable about disclosing a disability; and**

- **how they might then involve disabled staff in the development of the school's scheme.**

The disabled member of staff does not want to join the working group, but is happy to make some points for the working group to consider. She also suggests that within the school cluster (six schools) a small group of disabled staff might be formed to contribute to the development of schemes in the cluster schools.

Arising from this discussion, the working group agrees the following actions:

- **the school will seek general advice from a local support group about disability-friendly policies;**
- **a teacher on the working group will consult his union about the support available to disabled teachers; and**
- **the school will explore, with its partner schools, the possibility of setting up a cross-cluster group of disabled staff, with a view to involving them in considering what the schools in the cluster need to do to encourage staff to disclose a disability. Setting up this staff group is given high**

priority, so that the development and implementation of the scheme can be informed by the group.

Illustrating the duties

In this section illustrative case studies are grouped under the headings of the different elements in the general duty.

The case studies draw on schools' duties to:

- disabled pupils;
- disabled staff; and
- disabled parents, carers, governors and other users of the school.

Promoting equality of opportunity

Schools need to set out how they can promote equality of opportunity for disabled pupils, staff and parents. Schools should consider every aspect of the life of the school and will need to draw on information and the views of disabled pupils, staff and parents to identify priorities for their scheme.

Many of the reasonable adjustments that schools make, and much of the action taken as part of schools' accessibility plans,

already promote equality of opportunity. The distinctive features of action taken under the disability equality scheme are:

- the more proactive approach; and
- the requirement to include disabled pupils staff and parents.

In this example, the school is already making reasonable adjustments to ensure that all pupils go on school trips. It is by the active engagement of the parents and the consideration of information that schools will be able to identify further action to promote equality of opportunity.

Example:

As part of the development of their disability equality scheme, two teachers in a primary school meet parents of disabled pupils. The parents identify school trips as a difficult area: parents are often expected to accompany their children and, for the Year 6 trip in particular, some of the parents say that their children resent the fact that their parents go too. The parents also feel it limits the development of their children's independence. The information

that the school holds confirms that, almost invariably, parents accompany disabled pupils on trips. As part of their scheme, the school undertakes to re-examine their trips policy and sets the following targets:

- **by the next Year 6 trip, they will not have to ask or expect parents to come on the trip, though parents who express a wish to come will be welcome; and**
- **a year after that, appropriate arrangements will be in place so that all parents can be confident that their child can go on the school trip safely, without them.**

Some of the priorities that schools identify, particularly in their first scheme, may include action to develop better information and improve the involvement of disabled pupils, staff and parents as well as action to promote equality of opportunity:

Example:

A staff questionnaire reveals only one disabled member of staff. Aware that staff may be reluctant to disclose a disability, the school decides to:

- promote awareness of the DDA and the legal protection that it offers staff who are covered by it;
- explain that disclosure can enable the school to make reasonable adjustments;
- raise awareness of the local authority policy on harassment and bullying; and
- promote awareness of the support available to disabled members of staff.

The school also decides they should examine their recruitment process with a view to encouraging disabled applicants. They decide to:

- offer an interview to any disabled applicant for a job at the school, if they meet the minimum criteria;
- investigate the employers' 'two ticks' scheme; and
- contact local teacher training institutions to offer to be a placement for disabled trainee teachers.

The involvement of disabled pupils, staff and parents and the gathering of information may also highlight areas of school policy that need review or further investigation:

Example:

A small group of disabled pupils is involved in the development of a secondary school scheme. Two of the pupils have a physical impairment and talk about difficulties in two areas of the curriculum: PE and sex education. Three pupils with learning difficulties do not express a view. The school decides to:

- review the school's sex education programme in the light of the pupils' concerns;
- explore some new sport and PE activities, with a view to introducing at least one sport that is suitable for pupils with a physical impairment, by the following summer term; and
- ask one of the learning support assistants to work with a group of pupils with learning difficulties to establish their views. This will be carefully planned with visual aids to prompt the discussion.

Eliminating discrimination

The collection of information is crucial to identifying aspects of school life where there may be discrimination. Schools are already data rich and it is the intelligent interrogation

of existing information (for example, on achievements and exclusions) that may identify the priorities that schools need to set in their scheme.

Example:

A primary school considers information about parent attendance at parent teacher meetings and other school events. It identifies a group of parents who do not attend and appear to the school to be uninterested in their child's education. Aware that one of the parents may be disabled, the school investigates whether there are any access requirements that are not in place. In the light of what the school finds out, they decide to:

- designate a parking space for disabled parents dropping off and picking up a child;
- offer a telephone call to explain letters home for some parents who need this;
- adopt a more proactive approach to identifying the access requirements of disabled parents when their child starts at the school;
- identify a member of staff as a contact point for disabled parents; and
- keep the arrangements under review.

Example:

The Head of Year 9 reviews referrals for behaviour and discipline following a discussion of the definition of disability on a staff training day. She thinks that more pupils are covered by the definition than the school had previously recognised and identifies a group of pupils with autistic spectrum disorders who are over-represented in the referrals. She meets with the pupils individually, to discuss what steps the school might take to reduce the number of incidents. Following her discussions she meets with the pastoral deputy and the SENCO. They agree the following actions:

- the SENCO will contact the local authority for training on the communication needs of pupils with autism. It is important for new staff to attend these training sessions and existing staff to have refresher sessions;
- the deputy will circulate a note to ask other teachers with pastoral responsibilities to undertake similar reviews of referrals;
- the SENCO will involve the pupils and their parents in the development of a note to all staff to ensure that staff are aware of some key considerations in their interactions with the pupils;

- the deputy will bring forward the review of the school's behaviour policy to the next term; and
- the actions they agree will be incorporated into the school's disability equality scheme, but progress on reducing the number of incidents will be kept under review as part of the school's behaviour policy.

When considering disabled pupils and school policies on behaviour and exclusions, headteachers and governors should have regard to the guidance from the Welsh Assembly Government 'Exclusion from Schools and Pupil Referral Units'⁴.

Eliminating harassment

Bullying is more prevalent than is often thought and is more so for disabled pupils. The Social Exclusion Unit⁵ found that about 17 percent of all children report being bullied. In a survey commissioned by the Disability Rights Commission in 2002⁶ 38 percent of young disabled people said that they had been bullied at school. In a more recent survey by the National Autistic Society⁷, 40 percent of children on the autistic spectrum were found to have been bullied at school. Bullying is not restricted to pupils in schools: a report by Mencap⁸ found

that nearly 90 percent of people with a learning disability experience bullying.

As a starting point, schools need to raise awareness amongst staff and pupils of disability-related harassment. An understanding of the nature and prevalence of bullying and harassment will help the school to recognise and address it. The involvement of pupils themselves is a key feature of effective systems for combating bullying.

All schools in Wales, by law, must have a written anti-bullying policy. The Welsh Assembly Government issued guidance to all schools in Wales in September 2003: *Respecting others*⁹, which focused on tackling and preventing bullying.

Other documents that may be useful are Estyn's 2006 report *Tackling Bullying in Schools, A Survey of Effective Practice*¹⁰ and also The Cardiff University Report 2006 on Evaluation of School Anti-Bullying Policies¹¹.

Example:

A primary school has recently revised its anti-bullying policy. Some key features of the policy are:

Have you thought about disabled pupils, staff and parents?)

- the immediate challenge to be provided to pupils using negative race- or disability-related or sexist language;
- more detailed reporting and follow up of incidents of bullying;
- a range of actions, including assemblies and class work, to promote mutual respect; and
- the introduction of a buddy system and peer mentoring as both supportive and preventative measures.

The more detailed reports of bullying incidents, made under the new policy, show that disabled pupils are over-represented amongst those who are bullied. The school decides to:

- train more buddies; and
- extend the buddy system to all disabled pupils.

Disability-related bullying and harassment is not restricted to pupils. Disabled staff, parents, carers and other users of the school may also experience it and schools need to consider

what steps they may need to take to identify and address disability-related harassment for them, too.

Example:

A primary school has recently revised its anti-bullying policy. It states:

Bullying frequently focuses on individual differences or anything that is implied to be different from the majority. In this respect, it undermines the school's work in promoting equal opportunities and teaching social and moral principles.

Some key features of the policy are:

- the immediate challenge to be provided to pupils using negative race- or disability-related or sexist language;
- more detailed reporting and follow up of incidents of bullying;
- a range of actions, including assemblies and class work, to promote mutual respect; and
- the introduction of a buddy system and peer mentoring as both supportive and preventative measures.

The more detailed reports of bullying incidents, made under the new policy, show that disabled pupils are over-represented amongst those who are bullied. The school decides to:

- train more buddies; and
- extend the buddy system to all disabled pupils.

Promoting positive attitudes

Positive attitudes to disability can be promoted in a wide variety of ways in schools. This includes ensuring:

- staff model respectful attitudes to disabled pupils, staff and parents;
- there is representation of disabled people in positions of responsibility in the school; and
- that there are positive images in school books and other materials.

Example:

A series of teaching observations reveals that disabled pupils are not participating in class discussions as much as other pupils. The school decides to develop its teaching and learning policy to ensure that:

- teachers and teaching assistants give disabled pupils the opportunity to express their views;
- disabled pupils have all the necessary support in order to participate in discussions; and
- teachers and teaching assistants show that they value the contribution of disabled pupils.

Example:

The History department in a secondary school reviews the content of their schemes of work for the representation of disabled people. They decide to adapt some of the schemes of work in Key Stage 3 to include a number of historic figures who were disabled.

Example:

A primary school reviews its reading books and recognises that there are few images of disabled children and adults in their current stock. They decide that they will:

- identify publishers who include more images of disabled people in their publications;
- promote these publishers to staff with responsibility for selecting books; and

- set a target of 20 new books with positive images, to be acquired over the following year.

Encouraging participation in public life

Disabled pupils, staff and parents will be encouraged to participate where they already see their disabled peers included and succeeding in all aspects of the life of the school and beyond. Where disabled pupils, staff and parents are represented in senior, responsible and representative roles, this provides particular encouragement.

Example:

Following a discussion of the disability equality Duty with a disabled member of staff, the school council in a primary school decides to co-opt two disabled pupils to the council and to seek their advice about ways of increasing representation of disabled pupils as elected members of the council.

Example:

The governing body of a small primary school discusses how they might encourage the participation of disabled people within the governing body itself. As far as they know, no-one on the governing body is disabled. One of the governors knows that the

grandfather of one of the pupils is disabled. The governor is delegated to ask the grandfather about the possibility of being co-opted onto the governing body.

Example:

A school is keen to promote the participation of disabled pupils in the Schools Olympics in 2012. They decide to:

- start a poster campaign, with positive images of young disabled people participating in sports and of well known disabled athletes;
- work with other local schools to plan a programme to enable disabled pupils to develop skills to a more advanced level.

Encouraging participation may involve working with other partners to identify and address barriers.

Example:

A secondary school recognises that there are few disabled pupils participating in the extended day provision at the school. This provision is made on the school premises and run by the youth service. Both the school and the youth service are keen to promote the participation of more disabled pupils.

They decide:

- the youth service will discuss with disabled pupils who do attend, what the service might need to do to support more pupils to attend. They will also explore training for all staff;
- the school will talk with other disabled pupils who attend the school but do not currently attend the extended day provision. They will work with them to identify and remove barriers. They will also talk with parents of disabled pupils to identify and remove barriers.

Two barriers are identified early on: transport arrangements and the provision of support for disabled pupils who might wish to attend. Further actions are agreed:

- the school will talk to the local authority and to parents about transport arrangements; and
- the youth service will hold an 'open evening' at the end of the extended day and invite pupils and parents from the school. In particular, they want the opportunity to talk to disabled pupils and their parents about a range of ways in which it may be possible to support disabled pupils beyond the school day.

Taking steps to meet disabled people's needs, even if this requires more favourable treatment

Many reasonable adjustments that schools make are designed to take account of pupils' disabilities and may involve more favourable treatment. In meeting this element of the general duty, schools will need to ensure that their scheme builds these 'more favourable' considerations into the school's policies and practices and that they have considered the needs of disabled pupils, staff and parents. Action might include:

- providing additional coaching or training for disabled pupils, staff or parents;
- special facilities for disabled pupils at breaks and lunchtimes; and
- a policy of interviewing all disabled applicants who meet the minimum requirements for a job.

Sometimes the meeting of one element in the Duty will combine with one or more others.

This case study highlights:

- the promotion of positive attitudes;
- encouragement to participate in public life; and

- taking steps to meet disabled people's needs, even though it requires more favourable treatment.

Example:

In a secondary school one of the approaches to promoting positive attitudes to disability is through its PSE lessons. In one lesson pupils discuss the barriers that disabled people might face in participating in the democratic process. During the lesson a number of pupils raise questions about the representation of disabled pupils in the local youth parliament. A representative is delegated to discuss with disabled pupils, and with the school council, how disabled pupils should be represented. The outcome is that the school:

- decides to co-opt two disabled pupils to the school council;
- provides a training programme for some disabled pupils who might stand for election to the school council; and
- plans some additional coaching for two disabled pupils who are potential candidates for Funky Dragon, the Welsh Youth Parliament.

Who checks that your scheme is being implemented...or is it sitting in a drawer?)

3: Making it happen

3.1 Implementation

Schools are required to implement the actions in their scheme within three years. However, a school is not required to do anything which, in all the circumstances, would be considered unreasonable or impracticable.

Schools will be able to be more certain of the implementation of their scheme where:

- the scheme is supported by detailed action plans; and
- action plans are incorporated into a framework that has the oversight of the governing body, so that progress is checked.

Action plans

Schools are required to set out in their scheme the steps they are going to take to meet the general duty. The school might identify its priorities within the scheme itself. A series of actions will then be needed to ensure that the school makes progress on these priorities. These actions need to be brought together in an action plan, or a series of action plans, accompanying the scheme. **The table on page 56/57 maybe a useful tool for the governing body when developing their action plan.**

The action plans need to be sufficiently explicit to enable the school to judge whether or not their targets have been achieved. Action plans should show:

- clear allocation of lead responsibility;
- clear allocation of resources;
- an indication of expected outcomes or performance criteria;
- clear timescales; and
- a specified date and process for review.

It may be helpful for the governing body to:

- oversee the development of the scheme
- ensure progress is being made with implementation of an action plan

It is advisable that Schools should have an official record (for example, in the minutes of governing body meetings) that the school is aware of their duties under the Act. Indeed it may be advisable for the LEA to suggest to the governing bodies that this could be a standard agenda item in meetings.

Schools may find it helpful to incorporate the action plans for the accessibility plan and the disability equality scheme (whether in a joint or two separate documents) into the school improvement plan or an alternative framework. This will ensure progress will be overseen by the governing body.

Dovetailing with other priorities

In planning their actions, schools will need to consider how priorities identified in the school's scheme fit in with other priorities that the school has to address. Schools will be able to achieve efficiencies of effort where, for example, they:

- adopt a staged approach and plan developments over the three-year period of the scheme;
- dovetail actions arising from the scheme with actions arising from other school development priorities; and
- undertake a review of the impact on disabled people of a school policy, at the same time as the policy itself is due for review.

Evaluation

Estyn

Schools will need to be able to evaluate the effectiveness of their scheme and reflect their ability in promoting equality of opportunity and reflect this evaluation in their discussions with Estyn, when the school is inspected.

How readily can parents or visitors get hold of a copy of the school's scheme?)

3.2 Publication

Schools are required to publish their disability equality scheme.

The school's scheme can be published as a separate document or it can be published as part of other school documents; for example, an equal opportunities policy or the school improvement plan. Wherever it is published, the school must be able to provide a copy to anyone asking for one and the elements of the Duty need to be easily identifiable.

The school's scheme can be published as a separate document or it can be published as part of other school documents (as noted in the introduction); for example, an equal opportunities policy or the school improvement plan. Wherever it is published, the school must be able to provide a copy to anyone asking for one and the elements of the Duty need to be easily identifiable.

Timings

Schemes must be published by 1 April 2007.

Schools that develop a single document to serve as both an accessibility plan and a disability equality scheme will publish their next combined plan and scheme in April 2010.

3.3 Reporting

Schools are required to report on their scheme annually.

Schools are required to report on their schemes annually. Schools will want to make clear both:

- what progress they have made in terms of implementing their action plan; and
- what has been the effect of what they have done.

Schools will need to revisit the information they gathered at the start. This information, along with the views of disabled pupils, staff and parents, will help the school identify the progress they have made and the actions they may still need to take. This should be summarised in the annual report.

As with the scheme itself, the report on the scheme may be made in a separate document or may be made within another document; for example, the school prospectus where the school is required to report on its accessibility plan. Where a school reports on its scheme in its prospectus, this should be in the form of a summary, with signposting to a full report elsewhere.

For efficiency of effort, get your scheme into the same cycle as your) accessibility plan, so that they can be reviewed and revised as one.)

3.4 Reviewing and revising the scheme

Schools are required to review and revise their scheme every three years.

Schools are required to set out in their scheme the arrangements for using information to support the review of the action plan and to inform subsequent schemes.

As part of the review of their scheme, schools will need to revisit the information that was used to identify the priorities for the scheme. The school will need to re-examine the information to see if actions that the school has taken have affected opportunities and outcomes for disabled pupils, staff and parents.

The review of the scheme will inform its revision: how the school sets new priorities and new action plans for the next scheme. Once again, this process must:

- involve disabled pupils, staff and parents; and

- be based on information that the school has gathered.

Example:

One year after introducing a buddy system, a primary school reviews the number of bullying incidents that are disability related. The number of incidents does not appear to have reduced significantly. With disabled pupils and their buddies, the SENCO is asked to explore what is happening. The pupils are clear that they feel more comfortable about reporting incidents and that the buddy system is helping to address the problem. The school takes the view that disability-related bullying was probably under-reported before. They think that the scheme is working and that it needs to continue. In addition, it plans a series of assemblies to address bullying, to raise awareness of the buddy system and to stimulate a wider discussion of diversity.

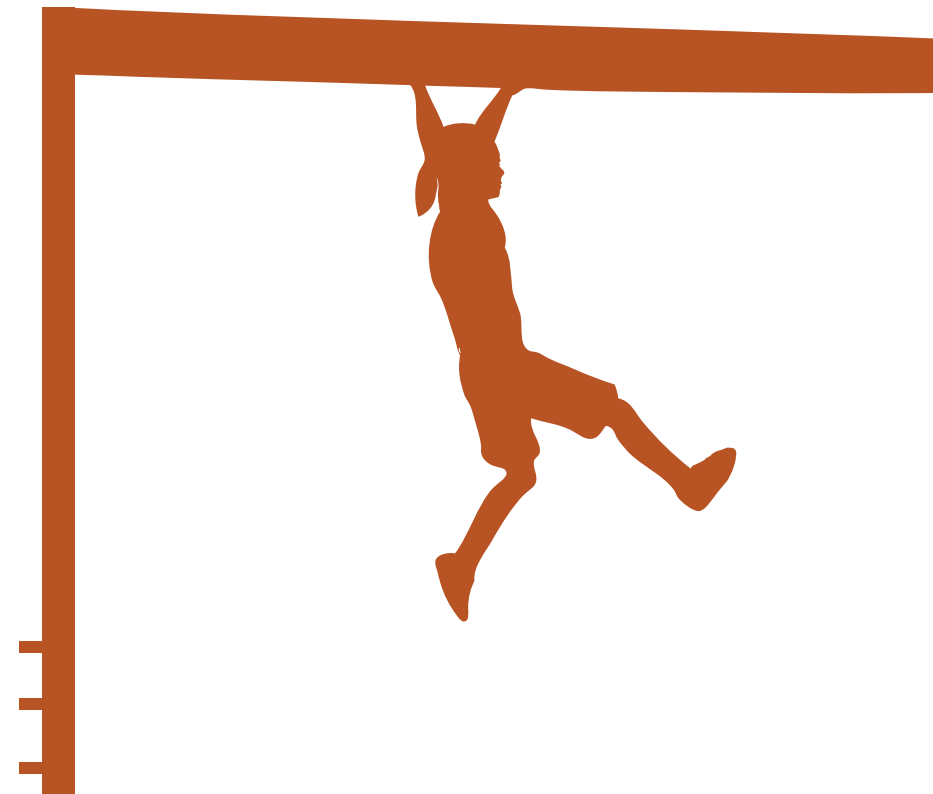
When developing a disability equality scheme the school/governing body may find these resources useful.



4: Resources

This section includes tools and information for schools:

- The disability equality Duty and the governing body: a checklist for governors;
- Access to Work: a summary of the scheme;
- The Disability Symbol: information on the 'two ticks' scheme;
- Summary of schools' duties under the DDA: a set of summaries of schools' duties under Parts 1, 2, 3, 4 and 5A of the DDA. Pages 62, 63, 66, 69 and 70 combine to provide a handout on the Disability Equality Duty.



The disability equality duty and the governing body

Questions the governing body may want to ask itself as the 'responsible body' for the school:

	Yes	No	Evidence
Duties to disabled pupils, staff and parents			
Does the GB receive regular reports on how the school is meeting its duties to:			
• disabled pupils?	<input type="checkbox"/>	<input type="checkbox"/>	
• disabled staff?	<input type="checkbox"/>	<input type="checkbox"/>	
• disabled parents, carers, governors, other disabled people who use the school or may want to do so?	<input type="checkbox"/>	<input type="checkbox"/>	
Disability equality duty: General duty			
Does the GB have regard to the need to:			
• promote equality of opportunity for disabled people?	<input type="checkbox"/>	<input type="checkbox"/>	
• eliminate disability discrimination?	<input type="checkbox"/>	<input type="checkbox"/>	
• eliminate disability-related harassment?	<input type="checkbox"/>	<input type="checkbox"/>	
• promote positive attitudes towards disabled people?	<input type="checkbox"/>	<input type="checkbox"/>	
• encourage participation by disabled people in public life?	<input type="checkbox"/>	<input type="checkbox"/>	
• take steps to meet disabled people's needs, even if this requires more favourable treatment?	<input type="checkbox"/>	<input type="checkbox"/>	

	Yes	No	Evidence
Disability equality duty: Specific duty			
Does the school have a disability equality scheme	<input type="checkbox"/>	<input type="checkbox"/>	
Did the school involve disabled people (pupils, staff, parents) in the development of the scheme?	<input type="checkbox"/>	<input type="checkbox"/>	
Does the school's scheme show:			
• how disabled people have been involved?	<input type="checkbox"/>	<input type="checkbox"/>	
• how information is gathered on the effect of the school's policies on:)			
• recruitment and retention of disabled staff?	<input type="checkbox"/>	<input type="checkbox"/>	
• opportunities for and achievements of disabled pupils?	<input type="checkbox"/>	<input type="checkbox"/>	
• how the school assesses the impact of its policies, current or proposed, on disability equality?	<input type="checkbox"/>	<input type="checkbox"/>	
• the steps it is going to take to meet the general duty (the school's action plan)?	<input type="checkbox"/>	<input type="checkbox"/>	
• how information will be used to support the review of the action plan and to inform subsequent schemes?	<input type="checkbox"/>	<input type="checkbox"/>	
Did the school implement the actions in its scheme within three years?	<input type="checkbox"/>	<input type="checkbox"/>	
Does the Governing Body:)			
• report on its scheme annually?	<input type="checkbox"/>	<input type="checkbox"/>	
• review and revise its scheme every three years?	<input type="checkbox"/>	<input type="checkbox"/>	

Access to Work

Access to Work is a scheme which is designed to help employers and disabled employees, or potential employees, find solutions to practical obstacles that prevent disabled people making the most of employment opportunities.

There are several ways in which Access to Work can help. For example, it can help pay for:

- communication support, for a deaf or hearing impaired person who may need support at an interview;
- a reader at work, for a blind or visually impaired person;
- special equipment (or alterations to existing equipment) to suit particular work needs arising from a disability; and
- help with the additional costs of travel to work for people who are unable to use public transport.

Access to Work can also pay for a support worker, if a disabled person needs practical help either at work or getting to work.

The type of support on offer might include:

- someone to read to a person with a visual impairment;
- someone to support communication for a person with a hearing impairment; or
- a specialist coach for a person with learning difficulties.

Access to Work does not replace the normal responsibilities of the employer to implement Health and Safety regulations or replace the responsibilities required by the Disability Discrimination Act.

An employer or a disabled employee or potential employee can find out more by:

- contacting their local Disability Employment Adviser (DEA) through their nearest Jobcentre Plus Office. The DEA will put you in touch with an Access to Work Adviser who will discuss your particular circumstances with you;
- looking on the Jobcentre Plus website: **www.jobcentreplus.gov.uk**

The Disability Symbol

The 'two ticks' Disability Symbol is an initiative administered by Jobcentre Plus, under the control of the Department for Work and Pensions, in Great Britain. The Disability Symbol is a voluntary agreement between employers and Jobcentre Plus and has been developed so that employers can show their commitment to good practice in employing disabled people.

Employers who display the symbol have agreed to take action to meet five commitments with regard to the employment, retention, training and career development of disabled employees:

- to interview all disabled applicants who meet the minimum criteria for a job vacancy and consider them on their abilities;
- to ensure there is a mechanism in place to discuss, at any time, but at least once a year, with disabled employees what can be done to make sure they can develop and use their abilities;
- to make every effort when employees become disabled to make sure they stay in employment;

- to take action to ensure that all employees develop the appropriate level of disability awareness needed to make these commitments work; and
- each year to review the five commitments and what has been achieved, plan ways to improve on them and let employees and Jobcentre Plus know about progress and future plans.

The Disability Symbol is a circular symbol, usually green, with two ticks.

There are employers all over Great Britain who use the disability symbol. They range from small to very large organisations in all the different types of business.

Information about becoming a Disability Symbol user is available on the Jobcentre Plus website: **www.jobcentreplus.gov.uk**

Summary of schools' duties under the DDA

The Disability Discrimination Act 1995 (DDA) applies to schools in a range of different ways. In particular it applies to three main school functions:

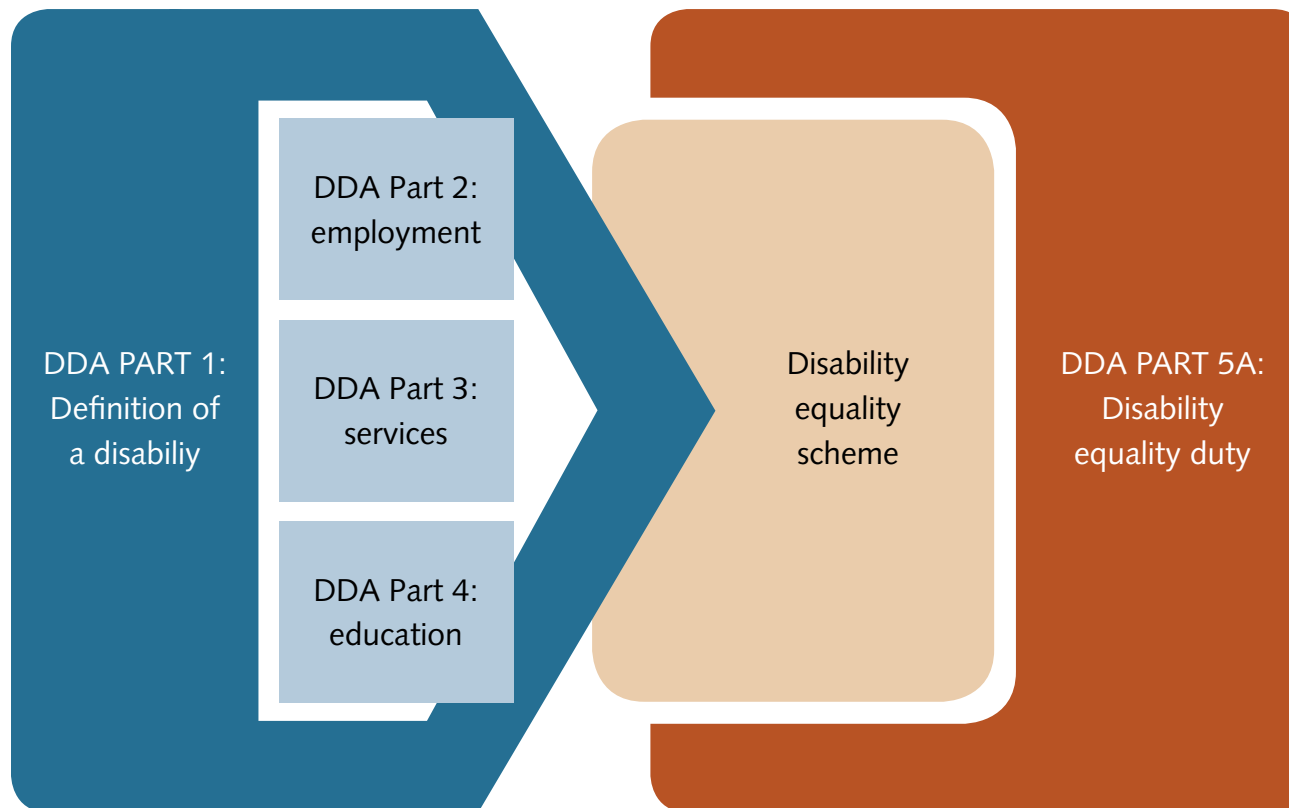
- to the school in its main function of providing education to pupils;
- to the school as an employer; and
- to the school as a provider of services to parents and carers and the wider public.

The employment and service provision duties have applied to schools since 1996 when the DDA was first implemented. The education duties were added by the SEN and Disability Act 2001. The Disability Discrimination Act 2005 inserted the Disability Equality Duty (the Duty) into Part 5A of the DDA. The Duty applies across all the main functions covered by the DDA, see Diagram 1, opposite.

Summaries of the duties

This section provides a set of summaries of the different Parts of the DDA. The summaries are brief and include only the main provisions of the DDA, not the detail of all the duties. For a more comprehensive account of each set of duties, schools should refer to the DRC's Codes of Practice. The Codes are listed as references at the end of this section.

Diagram 1: How the DDA duties fit together)



Part 1 of the DDA provides the definition of disability. The definition informs the duties in the other parts of the DDA.

Parts 2, 3 and 4 of the DDA apply to different aspects of the school's operation:

Part 2 sets out duties to disabled employees and prospective employees;

Part 3 sets out duties to disabled service users;

Part 4 sets out duties to disabled pupils and potential pupils.

DDA Part 1: The definition of disability

The DDA defines a disabled person as someone who has:

- 'a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.'

Definition of the terms:

- 'physical impairment' includes sensory impairments;
- 'mental impairment' includes learning difficulties and an impairment resulting from or consisting of a mental illness;
- 'substantial' means 'more than minor or trivial'; and
- 'long-term' is defined as 12 months or more.

The definition includes a wide range of impairments, including hidden impairments such as dyslexia, autism, speech and language impairments and Attention Deficit Hyperactivity Disorder (ADHD). These are all likely to amount to a disability, but only if the effect on the person's ability to carry

out normal day-to-day activities is substantial and long-term, as defined above.

The effect on normal day-to-day activities is on one or more of the following:

- mobility;
- manual dexterity;
- physical co-ordination;
- continence;
- ability to lift, carry or otherwise move everyday objects;
- speech, hearing or eyesight;
- memory or ability to concentrate, learn or understand;
- perception of risk of physical danger.

Some people are automatically covered by the definition: those with cancer, multiple sclerosis, HIV infection or a severe disfigurement.

There are special provisions for people with progressive or recurring conditions.

The definition covers a much larger group of people than is commonly thought. A report

from the Cabinet Office¹² suggests that about 772,000 children in the UK are disabled, equivalent to 7 per cent of all children and about 11 million adults, equivalent to 24 per cent of all adults.

Definition of Special Educational Needs

The definition of SEN includes many, but not necessarily all, disabled children.

'Children have special educational needs if they have a learning difficulty which calls for special educational provision to be made for them'

See Section 312, Education Act 1996

For children and young people in schools, there is a significant overlap between those who count as disabled under the DDA and those who have special educational needs as defined by the Education Act 1996.

The Department for Work and Pensions provides guidance on the definition of disability,¹³ including a checklist, Is Tom disabled?

DDA Part 2: Schools' duties in relation to employment)

Part 2 of the DDA says that it is unlawful for employers to discriminate against disabled employees and disabled people who apply for a job. It is discrimination if an employer:

- treats a disabled employee or applicant less favourably than another on the ground of the disabled person's disability (direct discrimination). Direct discrimination cannot be justified;
- fails to take reasonable steps to avoid placing a disabled employee or applicant at a substantial disadvantage (the 'reasonable adjustments duty'). There is no justification for failing to make a reasonable adjustment;
- treats a disabled employee or applicant less favourably than another for a reason related to their disability and without justification ('disability-related discrimination').

The duties apply to:

- recruitment, selection and interview procedures;
- terms and conditions of employment;
- induction, opportunities for promotion and transfer, training, professional development and other benefits;

- termination of employment.

The duties apply to disabled employees and disabled people who apply for a job:

- teaching and non-teaching;
- full-time and part-time;
- permanent and temporary or casual staff;
- contract staff, for example contract cleaners and agency supply teachers.

The reasonable adjustments duty in Part 2 of the DDA includes:

- making changes to an employee's duties, working hours or place of work;
- the provision of auxiliary aids and services;
- physical alterations to buildings.

When a disabled person considers that they have been discriminated against they should first seek to resolve the dispute within the workplace, wherever possible. A claim of discrimination is made by application to an employment tribunal.

The DRC *Code of Practice: Employment and Occupation*¹⁴ provides detailed information including examples to illustrate the provisions of Part 2, measures that employers would sensibly take to prevent discrimination in the workplace and how employers can plan to avoid discrimination in the future.

The following table provides some examples of adjustments that might be made for a disabled employee. It is important not to make assumptions and to ask the member of staff what adjustments they need to be made for them.

Altering working hours. For example: allowing an employee who becomes disabled to work part-time or to job share; making reasonable adjustments to the timetable; implementing a phased return after a period of absence for treatment or rehabilitation;

Changing the person's place of work.

For example: ensuring that a teacher with mobility difficulties which prevents him from using the stairs can hold all his lessons in classrooms on the ground floor;

Allowing absences during working hours for rehabilitation, assessment or treatment.

For example: allowing a disabled employee time off during work to receive physiotherapy or other treatment;

Examining the duties allocated to a disabled member of staff

to see where additional support may be required. For example: allocating a personal assistant to help in preparing classroom materials; providing cover for a teacher who needs toilet breaks or breaks to take medication;

Supplying additional training. For example: training in the use of particular pieces of equipment unique to the disabled person; re-training a teacher in a new subject area, so that they can continue teaching;

Acquiring or making changes to equipment.

For example: providing an induction loop in the school hall and other assembly areas, providing magnifying facilities, a pager that vibrates, a visible fire alarm system, or an adapted telephone;

Providing a reader or signer. For example: reading information to a visually impaired person at particular times during the day;

Altering premises. For example: widening a doorway; providing a ramp, stair-climbing chair, or non-slip flooring; moving classroom or corridor furniture; altering lighting; providing parking spaces for disabled drivers or providing a quiet room;

Transferring the person to fill an existing vacancy. For example: if a teacher becomes disabled and there is no reasonable adjustment that can enable them to continue in their current post, they might be considered for another suitable post.

The *Access to Work* scheme offers advice, guidance and resources to support the employment of disabled people; see the Resources section. In addition schools may want to investigate the employer's disability 'two ticks' scheme, which promotes good practice in the employment of disabled people.

The employer

It is important to be clear about who the employer is. This is different for different types of school. For foundation, foundation special and voluntary aided schools, the employer is the governing body of the school. However, these schools have significant delegated responsibilities and, in respect of functions that have been delegated, the governing body is treated as the employer.

For community, community special, voluntary controlled and maintained nursery schools and for pupil referral units (PRUs), the local authority is the employer.

Schools vary in the extent to which they, in turn, use the services of the local authority; for example, their local authority's recruitment services. There may also be some responsibilities that are shared and aspects of employment where the local authority provides schools with advice and guidance; for example, with model policies and advice on the conduct of individual cases.

When developing the employment aspects of the Disability Equality Duty, schools will need to work with their local authority, to ensure that their respective responsibilities are addressed.

DDA Part 3: Duties in relation to the provision of goods, facilities and services)

Part 3 of the DDA says that it is unlawful for service providers to discriminate against disabled people. A service provider discriminates if:

- it treats a disabled person less favourably for a reason relating to that person's disability and without justification (the 'less favourable treatment duty');
- it fails to make reasonable adjustments for a disabled person and without justification (the 'reasonable adjustments duty').

The less favourable treatment duty covers:

- refusing to provide a service to a disabled person which is provided to other members of the public;
- providing a disabled person with a lower standard of service; and
- providing a service on less favourable terms to a disabled person.

The reasonable adjustments duty applies to:

- any practice, policy or procedure that makes it impossible or unreasonably difficult for a disabled person to make use of a service;
- the provision of auxiliary aids and services that would enable or facilitate the use of a service by a disabled person;
- physical features. Reasonable adjustments to physical features might include:
 - removal or alteration;
 - providing a reasonable means of) avoiding the feature;)
 - making the service available by) a reasonable alternative means.)

Reasonable adjustments made to avoid a physical feature, or to provide a service by a reasonable alternative means, should take into account whether the provision of the service in this way significantly offends the dignity of disabled people and the extent to which it causes them inconvenience or anxiety.

The reasonable adjustments duty is owed to disabled people in general. It is an anticipatory duty. In determining what is reasonable, factors such as the cost of the adjustment, its practicability and the extent of the service provider's financial and other resources may be taken into account. The reasonable adjustments duty does not require service providers to do anything that fundamentally alters the nature of the service provided.

It is also unlawful for a provider of services to subject a disabled person to harassment if that person is using that service or has requested that service.

Part 3 applies to schools where they provide services to parents and carers and to the wider public; for instance, a meeting between teachers and parents, a meeting of the governing body itself or the use of the school buildings by a community group.

A claim of discrimination is heard in the County Court.

More detail on the Part 3 duties, and guidance on their interpretation, can be found in the Code of Practice issued by the DRC.¹⁵

The following table provides some examples of adjustments that might be made for a disabled parent, carer, governor or other person using the school:

Altering policies, practices and procedures.

For example: providing a front row seat at the school play for a parent who lip reads; allowing guide dogs into school so that a visually impaired governor can visit and attend meetings and events at the school; adjusting the school's 'no buggies' policy where a buggy is used for a disabled child; adjusting the complaints policy so that a disabled parent can make a complaint verbally instead of in writing;

Auxiliary aids and service. For example, producing a termly newsletter in large print, in Braille, on an audio cassette, or on a CD-ROM, for a visually impaired parent, in plain language or using illustrations for a parent

with a learning difficulty; providing a sign language interpreter for a deaf parent attending a parents' evening; providing a portable ramp up a step so that a governor with a mobility impairment can access the headteacher's room;

Removing or altering physical features.

For example, where a school hall is used for plays and other events, installing a loop system and improving the acoustics for hearing impaired parents and grandparents; providing parking spaces for disabled people, including a disabled parent taking a child to and from school; installing a platform lift to enable disabled people to access community provision on a mezzanine floor;

Reasonable alternative method. For example, where parent teacher meetings are normally held in the school hall on the first floor, meeting with a disabled parent in a downstairs room or moving the meeting to the gym which is an accessible room on the ground floor.

DDA Part 4: Schools' duties towards their pupils and prospective pupils)

Part 4 of the DDA says that it is unlawful for schools to discriminate against disabled pupils and prospective pupils. A school discriminates if:

- it treats a disabled pupil or prospective pupil less favourably than another for a reason related to their disability and without justification (the 'less favourable treatment duty');
- it fails, without justification, to take reasonable steps to avoid placing disabled pupils at a substantial disadvantage (the 'reasonable adjustments duty').

The duties apply to:

- admissions;
- exclusions;
- education and associated services (a broad term covering the whole life of the school).

Schools are also required to develop plans (accessibility plans) to improve access for disabled pupils by:

- increasing access to the curriculum;
- improvements to the physical environment of the school to increase access;
- making written information accessible to pupils in a range of different ways.

For schools, the reasonable adjustments duty in Part 4 of the DDA does not include:

- the provision of auxiliary aids and services: this provision is made through the SEN duties;
- physical alterations to buildings: these are made through the planning duties.

Accountability:

- Estyn inspects the quality of education provided for all pupils in Wales;
- Estyn inspects whether the school has taken reasonable action to ensure that disabled pupils do not suffer from less favourable treatment, including to what extent the school has taken steps to eliminate discrimination

When a parent considers that their disabled child may have been discriminated against, they can make a claim of disability discrimination. Most claims are made to the SEN and Disability Tribunal for Wales.

The DRC *Code of Practice for schools: DDA 1995: Part 4*¹⁶ provides guidance on how Part 4 of the DDA applies to schools.

The main requirements of the specific duty are to:

- prepare and publish a disability equality scheme (a scheme);
- involve disabled people in the development of a scheme;
- implement the scheme;
- report on it.

The purpose of the scheme is to demonstrate how the school is going to meet the disability equality duty. Schools are required to undertake the development of their scheme in a particular way and to include particular elements. They must:

- involve disabled people (pupils, staff, parents) in the preparation of the scheme;
- set out in their scheme:
 - how disabled people have been involved in its preparation;
 - their arrangements for gathering information on the effect of the school's policies on:

- the recruitment, development and retention of disabled employees;

- the educational opportunities available to and the achievements of disabled pupils;

- the school's methods for assessing the impact of its current or proposed policies and practices on disability equality;
- the steps the school is going to take to meet the general duty (the school's action plan);
- the arrangements for using information to support the review of the action plan and to inform subsequent schemes;
- implement the actions in their scheme within three years;
- report on their scheme annually;
- review and revise their scheme every three years.

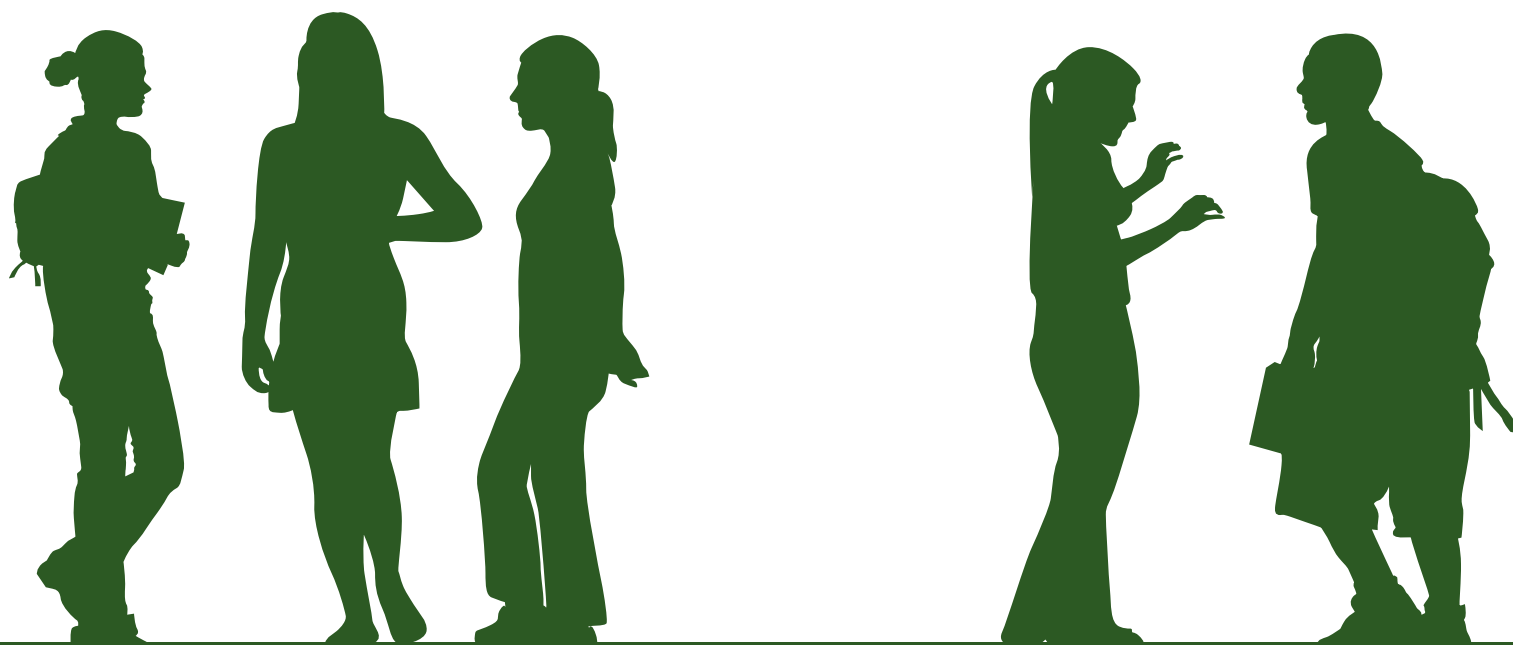
The school is not required to do anything under its scheme that is unreasonable or impracticable.

Schemes must be published by 1 April 2007.

The Disability Rights Commission (DRC) and, in due course, its successor the Commission for Equality and Human Rights, can take action against schools that have not met their duties.

The DRC publishes a Code of Practice, *The Duty to Promote Disability Equality: Statutory Code of Practice*¹⁸ and guidance for schools, *Guidance on the Disability Equality Duty for Schools in England and Wales*.¹⁹

Guidance and advice within this document has been sought from the following publications.



5: References

- 1 National Assembly for Wales (2004) Planning to Increase Access to Schools for Disabled pupils 15/2004.
- 2 (Government Strategy Unit (2005) Improving Life Chances: London.
- 3 Disability Rights Commission (2006) Schools and the Disability Equality Duty in England and Wales: Guidance for Governors, Headteachers, teaching and support staff working in schools in England and Wales.
- 4 National Assembly for Wales (2004) Exclusion from schools and Pupil Referral Units 1/2004.
- 5 Social Exclusion Unit (2003) *A better education for children in care*. London: Social Exclusion Unit.
- 6 Disability Rights Commission (2002) Survey carried out for the DRC by National Opinion Poll (NOP).
- 7 Batten A and others (2006) Make school make sense: autism and education, the reality for families today. London: National Autistic Society.
- 8 Mencap (2000) *Living in fear: the need to combat bullying of people with learning difficulties*. London: Mencap.
- 9 National Assembly for Wales (2003) Respecting Others 23/2003.
- 10 Estyn (2006) Tackling Bullying in Schools – A Survey of Effective Practice.
- 11 Cardiff University (2006) 'Assessment of School Anti-Bullying Policies'.
- 12 Cabinet Office (2005) *Improving the Life Chances of Disabled People*.
- 13 Department for Work and Pensions (2006) *Guidance on matters to be taken into account in determining questions relating to the definition of disability*. London: The Stationery Office.
- 14 The Disability Rights Commission (2004) *Code of Practice: Employment and Occupation*. London: The Stationery Office.
- 15 Disability Rights Commission (2005) *Disability Discrimination Act 1995: Code of Practice – Rights of Access: services to the public, public authority functions, private clubs and premises*.
- 16 The Disability Rights Commission (2002) *Code of Practice for schools: DDA 1995: Part 4*. London: The Stationery Office.
- 17 The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005, SI No. 2966.
- 18 Disability Rights Commission (2005) *The Duty to Promote Disability Equality: Statutory Code of Practice*.
- 19 Disability Rights Commission (2006) *Schools and the Disability Equality Duty in England and Wales: Guidance for Governors, Headteachers, teaching and support staff working in schools in England and Wales*.

The DRC also provides a short summary for schools and a booklet for all public authorities:

Disability Rights Commission (2006) *The Disability Equality Duty: What does it mean for Schools in England and Wales?*

Disability Rights Commission (2006) *Doing the Duty: an overview of the Disability Equality Duty for the public sector*

All the DRC publications are available on the DRC website: www.drc-gb.org

For more information and practical advice on the Disability Equality Duty visit: www.dotheduty.org

Acknowledgements

The Welsh Assembly Government wishes to acknowledge that our document is based on the DfES document.

Useful Contacts

Where to go for further help and information.



Appendix A

This list is not exhaustive

Local Services:

- Many local authorities have access officers who are able to offer advice on access issues.
- LEA curriculum support and advisory services can be a resource for advice on specific subject-related teaching techniques and strategies and curriculum materials. Support services can provide advice to teachers (e.g. on teaching techniques and strategies, classroom organisation and management; curriculum materials and curriculum development).
- LEA SEN support services include specialist teachers of pupils with hearing, visual, and speech and language impairments, teachers providing more general learning and behaviour support services, counsellors, educational psychologists, and advisers or teachers with knowledge of information technology for children with special educational needs. They will be able to provide specialist advice on the full range of access issues relating to particular kinds of disabilities.
- Health professionals such as speech and language therapists, occupational therapists and physiotherapists, as well as doctors and the school nurse, also provide advice and support for children with special educational needs and disabilities and may be able to advise on a range of access issues.
- Access Auditors/Consultants on the National Register of Access Consultants (www.nrac.org.uk) and the Access Association

Voluntary Organisations

Action for Sick Children

Provides information to help parents cope with, and prepare for different aspects of children's healthcare. Their work also aims to improve services and attitudes to the way sick children are treated when they are unwell.
Tel: 01792 2055337

www.actionforsickchildren.org

Advisory Centre for Education (ACE)

Ace is an independent advice centre for parents, offering information about state education in England and Wales for 5-16 year olds. They can offer advice on Special Educational Needs.
Office Tel: 020 7704 3370
Advice Line: 0808 800 5793

www.ace-ed.org.uk

AFASIC Cymru

AFASIC represents children and young adults with communication impairments, on a number of working party groups at the welsh assembly and at a local level.

Tel: 01978 750201

www.afasiccymru.org.uk

Association for Spina Bifida and Hydrocephalus

ASBAH provides advice and practical support to those with Spina Bifida and Hydrocephalus, their families and carers.

Tel: 01733 555988

www.asbah.org

Autism Cymru

Autism Cymru promotes the establishment of high quality services to people with autistic spectrum disorders in Wales.

Tel: 01970 625256

www.autismcymru.co.uk

Bobath

The Bobath organisation specialises in the treatment of cerebral palsy and acquired neurological conditions in children & adults.

Tel: 029 20 522 600

www.bobath.org.uk

British Deaf Association

Provides up to date information, counselling, a help-line, community advocacy and youth services.

Tel: 0845 1302851

Textphone 0845 1302851

www.britishdeafassociation.org.uk

British Dyslexia Association

Offers advice, information and help to families, professionals and dyslexic individuals. We are working to raise awareness and understanding of dyslexia, and to effect change.

Tel: 0118 966 2671

www.bdadyslexia.org.uk

British Institute for Learning Disabilities

BILD offers a range of services to support learning by professionals, care staff, service users and their families.

Tel: 01562 723010

www.bild.org.uk

Centre for Accessible Environments

Offers a range of access consultancy and access auditing services.

Tel/text: 020 7840 0125

e-mail: info@cae.org.uk

www.cae.org.uk

Centre for Studies on Inclusive Education (CSIE)

Gives information and advice about inclusive education and related issues.

Tel: 0117 328 4007

www.inclusion.org.uk

Children in Wales

Aim to promote the interests of and take action to identify and meet the needs of children, young people and their families in Wales.

Tel: 029 2034 2434

www.childreninwales.org.uk

Contact a Family Wales

Can provide information on over 1,000 rare syndromes and rare disorders and can put families in touch with each other.

Tel: 029 2039 6624

www.cafamily.org.uk/wales

Cystic Fibrosis Trust

The Cystic Fibrosis Trust funds medical and scientific research aimed towards understanding, treating and curing Cystic Fibrosis. It also aims to ensure that people with CF receive the best possible care and support in all aspects of their lives.

Tel: 020 8464 7211

www.cftrust.org.uk

Deafsign

Aims to provide deaf and hearing people with the means to achieve their potential through information services, training programmes, and one-to-one support.

Tel: 01642 580505

www.deafsign.com

Diabetes UK Cymru

Provides a comprehensive bilingual service for those with diabetes, healthcare professionals and local voluntary groups.

Tel: 029 2066 8276

www.diabetes.org.uk/cymru

Disability Advisory and Resource Team

Aims to help disabled people to use community education. Offers advice, practical help and a range of classes all over Cardiff.

Tel: 02920 644696

Disability Rights Commission

The DRC works to eliminate discrimination against disabled people, promote equal opportunities for disabled people, encourages good practice in the treatment of disabled people. It also advises the Government on the working of disability legislation.

Tel: 08457 622 633

www.drc-gb.org

Disabled Living Foundation

Helps provide the best possible choice for people who use equipment to live a more independent life.

Tel: 020 7289 6111

www.dlf.org.uk

Disability Wales

The national association of disability groups in Wales working to promote the rights, inclusion, equality, and support of all disabled people in Wales.

Tel: 029 2088 7325

www.disabilitywales.org.uk

Down's Syndrome Association

The Down's Syndrome Association exists to support people with Down's syndrome, their family and carers as well as providing information for those with a professional interest.

Tel: 029 2052 2511

www.dsa-uk.com

Dyspraxia Foundation

Aims to support individuals and families affected by Dyspraxia, to promote better diagnostic and treatment facilities for those who have Dyspraxia, to help professionals in health and education to assist those with Dyspraxia and promote awareness and understanding of dyspraxia.

Tel: 01462 454 986

www.dyspraxiafoundation.org.uk

Dyscovery Centre

The Trust aims to increase the support provided to both the public and professionals working with individuals with Dyspraxia and related conditions.

Tel: 01633 432 330

www.dyscovery.co.uk

Epilepsy Action

Epilepsy Action is the working name for British Epilepsy Association.

Tel: 0808 800 50 50

www.epilepsy.org.uk

Epilepsy Wales

To help people in Wales who have epilepsy and their families and carers.

Tel: 08457 413 774

www.epilepsy-wales.co.uk

Family Fund Trust

Our purpose is to ease the stress on families in the UK who care for severely disabled children under 16, by providing grants and information related to the care of the child.

Tel: 0845 130 4542

www.familyfundtrust.org.uk

Home Education Advisory Service

HEAS offers information for home educators including advice about educational materials, resources, GCSE examinations, special educational needs, information technology, legal matters and curriculum design. HEAS produces a range of leaflets and the Home Education Handbook.

Tel: 01707 371854

www.heas.org.uk

Hyperactive Children's Support Group

Britain's leading proponents of a dietary approach to the problem of hyperactivity in children helping families to cope with their hyperactivity children.

Tel: 01243 539966

www.hacsg.org.uk

ICAN (National Educational Charity for Children with Speech and Language Difficulties)

ICAN helps children in their own special schools, nurseries and centres within local schools and by providing training and information for parents, teachers and therapists.

Helpline: 0845 225 4071

Tel: 020 7843 2510

www.ican.org.uk

Independent Panel for Special Education Advice (IPSEA)

IPSEA can provide independent advice on appealing to the Special Educational Needs Tribunal, including representation when needed;

Tel: 01394 384711

Help Line: 0800 018 4016

www.ipsea.org.uk

Learning Disabilities Wales (Formerly SCOVO)

Learning disabilities Wales is the collective voice of the voluntary sector in Wales.

It promotes the rights of children and adults with a learning disability.

Tel: 02920 681160

MENCAP Cymru

MENCAP offers information, advice and support to people with a learning disability and their families and carers.

Tel: 029 2074 7588

www.mencap.org.uk

MIND Cymru (National Association for Mental Health)

Offers advice and information to those who suffer mental distress and their families/carers.

Tel: 0845 766 0163

www.mind.org.uk

Motability

Motability helps disabled people and their families to become more mobile.

Tel: 01279 635999

www.motability.co.uk

National Association of Citizens' Advice Bureaux

Provides independent, confidential, impartial and free advice. For advice contact your local branch.

www.nacab.org.uk

National Association for Able Children in Education (NACE)

NACE offers education professionals support, in improving classroom practice for able, gifted and talented pupils, with the intention that all pupils will benefit.

Tel: 01865 861879

www.nace.co.uk

National Association of Special Educational Needs (NASEN)

NASEN promotes the interests of those with exceptional learning needs and/or disabilities, provides a forum for those actively involved with exceptional learning needs and/or disabilities and contributes to the formulation and development of policy in the area.

Tel: 01827 311500

www.nasen.org.uk

National Autistic Society (Wales)

NAS provides education, treatment, welfare and care to people with autism and related conditions.

Tel: 02920 629 312

www.nas.org.uk

National Deaf Children's Society (NDCS)

The NDCS supports deaf children, young deaf people and their families in overcoming the challenges of childhood deafness. We exist to give them the best possible start, providing the knowledge, support and opportunities to empower all deaf children.

Tel: 02920 373474

www.ndcs.org.uk

National Register of Access Consultants

It is an Independent register of accredited Access Auditors and Access Consultants who meet professional standards and criteria. Nutmeg House, 60 Gainsford Street, London, SE1 2NY.

Tel: (18002) 020 77357845

www.nrac.org.uk

Parents for Inclusion

Parent's help parents so that disabled children can learn, make friends and have a voice in ordinary school. Getting A Life Help Line: 0800 652 3145/020 75 825 008.

www.parentsforinclusion.org

PHAB Wales

Helps to promote and encourage disabled and non disabled people to come together on equal terms, to achieve complete inclusion within the wider community.

Tel: 02920 520 660

www.phab.org.uk

Pre-School Learning Alliance

Is dedicated to supporting the work of community pre-schools, through training courses, quality assurance systems, local visiting by skilled advisers, a range of helpful publications and other merchandise, advice and helplines.
Tel: 020 7697 2500

www.pre-school.org.uk

RNIB Cymru

Provides services as effectively as possible to blind and partially sighted people across Wales
Tel: 029 2033 30334

www.rnib.org.uk/services/cymru

SCOPE Cwmpas Cymru

Scope's education services provide training and support for children and adults with cerebral palsy, as well as for parents and helpers.

Tel: 029 2046 1703

www.scope.org.uk

SENSE Cymru

Offers advice, groups and services to help sensory impaired people of all ages.

Tel: 01639 646717

www.sense.org.uk

SNAP Cymru

SNAP Cymru provides Independent Parental Support Services in Wales providing information and support to families of children and young people who have or may have special educational needs.

Tel: 0845 120 3730

www.snapcymru.org

Special Educational Needs Tribunal for Wales (SENTW)

Parents in Wales whose children have Special Educational Needs (SEN) can appeal to the Special Educational Needs Tribunal for Wales (SENTW) against decisions made by Local Education Authorities (LEAs) in Wales about their children's education. They also consider claims of disability discrimination about schools in Wales.

www.sentw.gov.uk

Tuberous Sclerosis Association of GB

Supporting sufferers, promoting awareness, and seeking the causes and best possible management of Tuberous Sclerosis.

Tel: 0121 445 6970

www.tuberous-sclerosis.org.uk

Further Information

Enquiries should be directed to

Carys Williams,

Tel: 02920 821652.

E-mail: carys.williams@wales.gsi.gov.uk

Additional copies

Can be obtained from Carys Williams
or accessed on the Welsh Assembly

Government's website

www.learning.wales.gov.uk

Related documents

Disability Rights Commission: Schools
and the Disability Equality Duty in
England and Wales – Guidance for
Governors, Headteachers, teaching
and Support Staff working in Schools
(England and Wales)

Special Educational Needs – Code of
Practice for Wales (January 2004)

Planning to Increase Access to Schools
for Disabled Pupils: National Assembly
for Wales Circular 15/2004.



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